

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA            ) CAUSE NO. 3:04-CR-240-P  
  (  
vs.                                        )  
  ( OCTOBER 6, 2008  
  ) DALLAS, TEXAS  
HOLY LAND FOUNDATION, ET AL    ( 9:00 A.M.

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VOLUME 14 OF 37

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STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE  
and a jury

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A P P E A R A N C E S

FOR THE GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE  
1100 COMMERCE, 3RD FLOOR  
DALLAS, TEXAS 75242  
BY: MR. JIM JACKS  
MR. BARRY JONAS  
MS. ELIZABETH SHAPIRO

FOR THE DEFENDANT: FREEDMAN, BOYD, HOLLANDER,  
(SHUKRI ABU BAKER) GOLDBERG & IVES, P.A.  
20 FIRST PLAZA, SUITE 700  
ALBUQUERQUE, NEW MEXICO 87102  
BY: MS. NANCY HOLLANDER  
MS. TERESA DUNCAN

1                   FOR THE DEFENDANT:   LAW OFFICE OF JOSHUA L. DRATEL  
2                   (MOHAMMAD EL-MEZAIN) 14 WALL STREET, 28TH FLOOR  
3                   NEW YORK, NEW YORK 10005  
4                   BY: MR. JOSHUA DRATEL  
5                   MR. AARON J. MYSLIWIEC

6                   FOR THE DEFENDANT:   LAW OFFICE OF MARLO P. CADEDDU  
7                   (MUFID ABDULQADER) 3232 MCKINNEY AVENUE, SUITE 700  
8                   DALLAS, TEXAS 75204  
9                   BY: MS. MARLO P. CADEDDU

10                  FOR THE DEFENDANT:   LAW OFFICE OF LINDA MORENO  
11                  (GHASSAN ELASHI) P.O. BOX 10985  
12                  TAMPA, FLORIDA 33679  
13                  BY: MS. LINDA MORENO

14                                   JONES DAY  
15                                   555 CALIFORNIA ST., 26TH FLOOR  
16                                   SAN FRANCISCO, CA 94104  
17                                   BY: MR. JOHN D. CLINE

18                  FOR THE DEFENDANT:   WESTFALL, PLATT & CUTRER  
19                  (ABDULRAHAM ODEH) ONE SUMMIT AVENUE, SUITE 910  
20                  FORT WORTH, TEXAS 76102  
21                  BY: MR. GREG WESTFALL

22                  COURT'S LAW CLERK:   MS. JENNIFER HELMS  
23                                   1100 COMMERCE, RM. 1654  
24                                   DALLAS, TEXAS 75242

25                  COURT COORDINATOR:   MS. BRENDA WEBB  
                                  1100 COMMERCE, RM. 1654  
                                  DALLAS, TEXAS 75242

                  OFFICIAL COURT REPORTER: SHAWN M. McROBERTS, RMR, CRR  
                                  1100 COMMERCE STREET, RM. 1654  
                                  DALLAS, TEXAS 75242  
                                  (214) 753-2349

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1           THE COURT: All right. Ms. Cadeddu, I believe you  
2 sent an email, and you had one exhibit you are planning on  
3 getting into and Mr. Jonas you had no objections. Is that  
4 correct? Let me hear from you or Ms. Shapiro.

5           MR. JONAS: If I can just confer with Mr. Jacks. We  
6 have no objection.

7           THE COURT: All right. And what exhibit was that,  
8 Ms. Cadeddu?

9           MS. CADEDDU: Well, Your Honor, that exhibit is  
10 Defense Exhibit No. 1351.

11          THE COURT: And you are going to offer that?

12          MS. CADEDDU: I am, Your Honor.

13          THE COURT: And no objections, so that is admitted.

14          MR. JONAS: If I can just inquire so we are on the  
15 same page, that is the one that is multiple pages?

16          THE COURT: The receipts that go with that check?

17          MS. CADEDDU: Yes, sir.

18          THE COURT: All right.

19          And then Ms. Duncan or Ms. Hollander, let's take up  
20 yours. I received your email, and I saw the transcript. It  
21 is a long transcript, and what I didn't have until just a few  
22 minutes ago is what it was in 106 in relation to so I could  
23 compare, so I haven't had an opportunity to do that.

24          MS. DUNCAN: I can tell you orally how we see it  
25 fitting into the Philadelphia meeting.

1           The conversations, generally speaking, about the need to  
2           start a new organization that can work with the PLO and the  
3           State Department and a more neutral organization, that  
4           transcript pertains primarily to that.

5           And you may recall that Agent Burns, or the Government,  
6           played several portions of the Philadelphia meeting related to  
7           that topic and discussed an organization named CAIR suggesting  
8           that that was in fact the new neutral organization. So this  
9           transcript sort of fleshes that out and gives more meaning to  
10          why it is that they felt the need -- We were discussing this  
11          need to start a neutral organization and puts those into  
12          context.

13          They sort of talk about that new organization throughout  
14          the Philly meeting in several transcripts, but I would say  
15          primarily they talk about it in Philly Meeting No. 5 and 7 of  
16          the Government exhibits.

17                 THE COURT: And those are in?

18                 MS. DUNCAN: Those are in.

19          The other thing, Your Honor, is and -- I know the  
20          Government doesn't agree with the chronology, but when you  
21          look at the same Philly meeting transcripts from the first  
22          trial, which were in the order of those .WAV files, the  
23          transcripts that we are seeking to introduce fit actually  
24          right in between Government's Philly Meeting No. 16 and Philly  
25          Meeting No. 4. So it is a continuation of Philly Meeting No.

1 16 and it is an introduction to Philly Meeting No. 4.

2 THE COURT: Are they also in?

3 MS. DUNCAN: Those are also into evidence.

4 So the five Philly meeting transcripts that we are no  
5 longer seeking to introduce were actually the last two  
6 transcripts on the first day and the last three transcripts on  
7 the second day. So the only transcript that we are seeking to  
8 introduce at this time is one that fell right between the  
9 transcripts that the Government has already introduced into  
10 evidence.

11 THE COURT: All right. And none of this portion of  
12 the transcript that you are seeking to admit has been  
13 admitted. Is that correct?

14 MS. DUNCAN: That is correct. It was former  
15 Government Exhibit No. 16-73. It is about 11 pages. And none  
16 of this transcript has come in, Your Honor.

17 THE COURT: Mr. Jonas, or Mr. Jacks?

18 MR. JONAS: One moment, Your Honor.

19 THE COURT: Sure.

20 MS. DUNCAN: Your Honor, actually there was one  
21 other thing I wanted to point out about that transcript.

22 THE COURT: All right.

23 MS. DUNCAN: There is a statement on page 9 of that  
24 transcript, which is actually Mr. Abu Baker speaking, where he  
25 is talking about -- It is kind of -- He is talking about the

1 approach that the participants should take to the new  
2 developments in Palestine and sort of how they are going to  
3 continue their work in the future, and he is asking the other  
4 participants to keep an open mind and to not be so bound by  
5 sharia rulings, which is Islamic law, but to be allow  
6 themselves to be exposed to new and strange ideas. And we see  
7 that as a 106 also to the portions the Government played,  
8 which suggested to the jury that everyone at this meeting came  
9 in with this idea to derail the agreements and was open to no  
10 other and had no other purpose for this meeting.

11 THE COURT: Okay.

12 MR. JONAS: Your Honor, we will have no objection to  
13 the one transcript coming in.

14 I do want to make sure we are clear on the record that  
15 besides just this one coming in, is there going to be an issue  
16 with -- If I may address Ms. Hollander and Ms. Duncan.

17 THE COURT: Sure.

18 MR. JONAS: Have you dropped the issue of putting  
19 them in what you consider them chronologically and  
20 reintroducing them.

21 MS. DUNCAN: We do not to plan to reintroduce the  
22 transcripts other than this one.

23 THE COURT: And apparently, from your email, you are  
24 dropping that issue of trying to get some idea of the  
25 chronological order before the jury.

1 MS. DUNCAN: No, Your Honor, we are not dropping the  
2 issue, but we are dropping trying to introduce the whole  
3 meeting as a Defense exhibit.

4 MR. JONAS: The only issue I have is Agent Burns  
5 already said she doesn't understand that .WAV file, and if  
6 they want to question Agent Burns whether that is in  
7 chronological order or not, that is improper.

8 THE COURT: We will see how they get into that  
9 chronology, and we will deal with it at that time.

10 What exhibit number is this of yours?

11 MS. DUNCAN: We were calling it D-Philly Meeting No.  
12 14.

13 THE COURT: So you are offering that. You can offer  
14 that -- I will go ahead and admit it now, and you can use it  
15 during your cross. So D-Philly Meeting No. 14 is admitted.

16 All right. And then you also want to introduce the poem?

17 MS. DUNCAN: Yes, Your Honor. As you requested, we  
18 looked at the record from the first trial about the  
19 translation issue, and we confirmed that the Government was  
20 correct that the translation version on the Court's website is  
21 not the one that they read into the record, so we are  
22 withdrawing that issue.

23 But if you look on page 3 of the original Illa Falistine,  
24 there is this Holy Land ad, and when you look at the  
25 Government's translation on page 8 you will see that they have



1 translated the left hand portion of the ad but they have not  
2 translated the right hand portion. Instead, they just put in  
3 brackets the word poem. And under Rule 106, we are seeking to  
4 introduce a translation of that poem only, because it is part  
5 of the ad, as you can see when you look on page 3.

6 THE COURT: Mr. Jonas, were you able to see that  
7 email this morning or yesterday?

8 MR. JONAS: Yes, sir. And we are objecting. We  
9 don't see how under 106 this poem explains or clarifies  
10 anything in this particular exhibit. We don't think they met  
11 their burden or predicate under 106.

12 MS. DUNCAN: Your Honor, if I can clarify, the  
13 Government is introducing this to show Holy Land Foundation's  
14 intent, what the face they are putting out to the donors, and  
15 they are attaching significance to the fact that this ad  
16 appears in a particular magazine, but then they don't want the  
17 jury to see the words that Holy Land used to solicit the  
18 donations. So the jury should be able to consider the full  
19 ad, the full statement of the Holy Land Foundation that the  
20 Government has introduced in this case.

21 THE COURT: Okay.

22 MR. JONAS: Your Honor, I don't think I have  
23 anything to add. We still object.

24 THE COURT: And I think that that is proper. I will  
25 overrule that objection and permit you to introduce that

1 translation with that poem. Will that be the same exhibit  
2 number, or are you going to give it a new exhibit number?

3 MS. DUNCAN: Your Honor, we were going to give that  
4 as an exhibit number D-Illa Falistine No. 1.

5 THE COURT: Mr. Jacks?

6 MR. JACKS: That is not the Government's  
7 translation, so whoever translated that is not here and --

8 THE COURT: That is not your translation?

9 MR. JACKS: No, sir.

10 THE COURT: Counsel, you are going to have to have a  
11 sponsor for the translation.

12 MS. DUNCAN: Your Honor, during the last trial we  
13 sent translations to the Government, and Mr. Shafik would  
14 review it and then we would introduce it that way when we  
15 tried to do exhibits during the Government's case.

16 We sent it to the Government on Saturday and asked them  
17 to review it and let us know if there were any problems. They  
18 haven't come back and told us that there were. So I mean, we  
19 can have a witness come in and sponsor it conditionally, but  
20 at this point we asked them to review it and to tell us if  
21 there was a problem and they haven't identified a problem.  
22 During the first trial I think the changes, if any, to any of  
23 our translations were very small.

24 THE COURT: So you have a witness you can come in to  
25 sponsor it?

1 MS. DUNCAN: Yes, Your Honor.

2 MS. CADEDDU: The translators we use is Mike  
3 Mahler's group. It is same group used by the Northern  
4 District. So we have used Mike Mahler's group again.

5 THE COURT: All right. I will permit that, with the  
6 understanding that at some point you have to have somebody to  
7 sponsor that, to testify that that is an accurate translation.

8 All right. And tell me again what you are calling that  
9 exhibit.

10 MS. DUNCAN: It is D-Illa Falistine No. 1, Your  
11 Honor.

12 THE COURT: All right. That is admitted. And then  
13 lastly, as I understand your email, Exhibit No. 894 and I  
14 couldn't find that on my -- the disk that I had. So I have  
15 not been able to see that. Mr. Jonas, have you been able to  
16 see that disk? They want to play it without the sound. I  
17 take it that it is like some of the disks we played last  
18 Friday.

19 MR. JONAS: Your Honor, I have not had a chance to  
20 view it myself and as I understand Mr. Jacks has.

21 MR. JACKS: Judge, our objections is the same as it  
22 has been for these other photographs and videos. It contains  
23 hearsay, and it is really not authenticated. And I don't even  
24 know if Agent Burns has ever seen this one or looked at it.  
25 With regard to what it purports to show, I don't believe

1 anybody is going to be presented to explain what it purports  
2 to show. For that reason we believe there is no foundation  
3 and should not be admitted. And then beyond that, it is  
4 hearsay.

5 THE COURT: They said they are not going to play the  
6 sound, so it would amount to moving photos.

7 MR. JACKS: I understand, and it has got lighting  
8 and that type of thing.

9 THE COURT: Can you tell the setting from looking at  
10 it? Do you know what it is about? Can you tell.

11 MR. JACKS: Only from what the people say. And  
12 again, you can't tell necessarily when it was made, where it  
13 was made, those things. It is spliced, or it stops and  
14 starts, and you don't know if both things were done at the  
15 same time; if they were put together. There is none of that  
16 type of foundation that can be established, certainly not  
17 through Agent Burns.

18 THE COURT: Okay. Ms. Duncan?

19 MS. DUNCAN: Your Honor, it is about a 25-minute  
20 video -- The evidence will show during the cross of Agent  
21 Burns that the Holy Land Foundation paid for volunteers to fly  
22 to Oklahoma City to help with the relief efforts after the  
23 Oklahoma City bombing in April of 1995.

24 This video shows people with Holy Land T-shirts filling  
25 boxes with personal hygiene supplies for the victims of that

1 bombing. We have taken out the sound, so what the video shows  
2 is all these Holy Land Foundation workers, and Agent Burns  
3 clearly can identify --

4 THE COURT: I don't mind you showing some of that.  
5 I don't want you to show 25 minutes of that.

6 MS. DUNCAN: No, no, no. That was in response to  
7 the splicing. We have cut it down to less than five minutes.  
8 At the very end of the video you will see the actual Murrah  
9 building which we will ask her to identify.

10 First of all, it is date and time stamped. Secondly, at  
11 the end of the video it shows a photograph of the Murrah  
12 building and a Holy Land person in a Holy Land T-shirt at that  
13 place. And also if you look on the cover of the video, Agent  
14 Burns has seen this video and I think we will be able to  
15 establish that during the cross examination.

16 THE COURT: And what are you calling that? That is  
17 Defense Exhibit No. 894?

18 MS. DUNCAN: Correct, Your Honor.

19 THE COURT: Okay. And I will permit you to do that,  
20 then. That is admitted.

21 Any other issues, then, before the jury comes in?

22 MR. DRATEL: Your Honor, we probably won't get to it  
23 before the break, but I have a couple of 106 issues.

24 THE COURT: Let's go ahead and take that up.

25 MR. DRATEL: There are two that are in the motion

1 that I filed last night that are beyond -- Both 106 and also  
2 801(c) the non-hearsay.

3 I also received back from the Government -- It was just a  
4 mix-up in terms of the end of last week. The Government has  
5 agreed to some additional ones, but there are a couple -- I  
6 think there is only one additional one that is not covered in  
7 the papers at this point. El-Mezain Wiretap No. 13, which is  
8 an exhibit that the Government introduced through Agent Burns,  
9 but it is actually going to be played with another witness, so  
10 we will wait on that one. So No. 13 we can defer.

11 THE COURT: Okay.

12 MR. DRATEL: With respect to No. 11, the Government  
13 has agreed to go as far as the bottom of page 10 of the larger  
14 transcript, but doesn't want the first two paragraphs on page  
15 11, which is what we want, just the first two, which I think  
16 completes that part of the conversation. They are still  
17 talking about the reporter and matters related to that.

18 And there is another conversation, Shabib No. 1, which  
19 came in through Agent Burns, Shabib Wiretap No. 1. The  
20 Government has agreed to one of the sections, so we don't have  
21 to discuss that, but there is a section which I can show  
22 the --

23 THE COURT: In fact, I have not seen those because I  
24 didn't get this motion until a few minutes before I came up  
25 here. If you will come up here -- You said it is just a

1 couple of paragraphs on that one.

2 Mr. Jonas, do you want to come up here a minute and let's  
3 take a look at that.

4 (The following was had at the bench.)

5 MR. JONAS: On El-Mezain Wiretap No. 11, I don't  
6 know if you have that.

7 MR. DRATEL: I do. This is the one I have here. I  
8 wanted to show the Court where the Government --

9 MR. JONAS: If we can go to the page that you wanted  
10 to start, the additional part. And for the record, this has  
11 several segments, this call. I played one segment with Agent  
12 Burns. The second that we are discussing now was not played,  
13 so I am not sure if you want to do this with her or not. I am  
14 not sure if it is proper to do this with her or not, since it  
15 wasn't played.

16 THE COURT: Are you objecting to them playing it,  
17 though?

18 MR. DRATEL: Or just read it.

19 MR. JONAS: I am objecting to playing or reading the  
20 portions that they want, unless the whole portion that we  
21 already admitted that I haven't played is played as well.

22 MR. DRATEL: I see. I understand.

23 MR. JONAS: So if you want to wait --

24 MR. DRATEL: Let me ask this question. Are you  
25 planning on using it with Agent Miranda?

1           MR. JONAS: You have to ask Mr. Jacks that. Agent  
2 Miranda is his witness.

3           MR. DRATEL: I mean, but are you not going to play  
4 this at all?

5           MR. JONAS: I honestly don't know. If you want to  
6 play this portion now, I don't have an objection to it as long  
7 as our portion is played with it so the jury can see the whole  
8 thing, because otherwise it is out of context.

9           THE COURT: That is to all of El-Mezain 11 that he  
10 wants?

11          MR. JONAS: This particular segment.

12          THE COURT: The one he is asking for.

13          MR. JONAS: Yes, sir.

14               We stopped somewhere around here. I agree that the  
15 continuation, the rest of this paragraph up to a certain point  
16 is a continuation of the conversation. However, somewhere  
17 around here, and it is difficult to read upside, here this is  
18 Shukri Baker speaking I believe, and he changes subject. He  
19 says -- This is about the Gayle Reeves interview. This is a  
20 continuation of the Gayle Reeves interview, which is an  
21 interview of the reporter of Shukri Baker, that we played  
22 portions of. He then calls El-Mezain and he discusses it.  
23 And this is a continuation of Shukri Baker saying, "And this  
24 is what else I told her."

25               But then over here he stops and changes subject and says,



1 "The day before yesterday there was an interview with Peres,"  
2 who is Shimon Peres, one of the leaders of Israel, by the way,  
3 and they talk about that interview, which is separate. So we  
4 object to this, but starting with the last page --

5 MR. DRATEL: But he goes back to what he told Gayle.  
6 He says, "So I told her that stuff. So it is still the same.  
7 And then Mr. El-Mezain responds.

8 MR. JONAS: We object to that.

9 MR. DRATEL: It is a continuation of their  
10 conversation about Gayle Reeves.

11 MR. JONAS: Your Honor, I think you will need to  
12 read it. Even just the fact that it is a continuation of the  
13 conversation doesn't necessarily meet the 106 predicate. It  
14 has got to explain and put in context the rest of the  
15 conversation that is in already.

16 I have agreed to continue the rest of the attribution,  
17 even though I don't think the predicate is completely met, but  
18 I understand that it is a close call on that prior paragraph.  
19 I think at this point they it switch gears, and I think that  
20 is why the rest of it, from the "By the way" forward needs to  
21 come out.

22 MR. DRATEL: And I think for two reasons, one of  
23 which in fairness. The rule is really about fairness. And  
24 there is also the parts of the motion that we filed I think,  
25 regardless of 106, the whole question of 801(c) and

1 non-hearsay with respect to expressions of state of mind.

2 MR. JONAS: Then, Your Honor, under Mr. Dratel's  
3 definition any statement of the Defendant could be argued it  
4 is state of mind.

5 And I just now have this motion. It came in late last  
6 night. But my understanding of the cases, first of all, it  
7 has got to be the state of mind of the speaker; and second of  
8 all, it is narrowly defined. In other words, if a person is  
9 talking about events that happened previously, that is not  
10 necessarily a state of mind at the time he is saying it. So  
11 if I can give an example --

12 MR. DRATEL: But that to me is classic current state  
13 of mind.

14 THE COURT: This one?

15 MR. JONAS: Whose state of mind is it?

16 MR. DRATEL: El-Mezain's.

17 MR. JONAS: Then offer just that. And we object to  
18 it as well.

19 MR. DRATEL: Well, I think 106 would put that in to  
20 give it context. I am just saying I think it should come in  
21 as well. Obviously Mr. El-Mezain's statement is more  
22 important, but I think in the context of this entire  
23 conversation it all should come in in fairness.

24 MR. JONAS: Now we are bootstrapping.

25 MR. DRATEL: I don't think it is bootstrapping, but

1       it is just a matter of discretion.

2               MR. JONAS: I will agree with you on that one.

3               THE COURT: Yeah. I think this goes with this other  
4       portion of where they are talking about peace and living in  
5       peace, so I will let you get into that. I think this other  
6       conversation with Peres and other interview, that is probably  
7       off limits.

8               MR. DRATEL: Okay. Thank you.

9               MR. JONAS: I am sorry, Your Honor. Which portion,  
10      then, is okay?

11              THE COURT: Right here by El-Mezain.

12              MR. JONAS: Just the El-Mezain part?

13              THE COURT: They are discussing whether Israel  
14      thinks that you should live, and he is talking about, "We  
15      received them in peace back in 1915." And this is Baker, and  
16      so part of that this is where El-Mezain responds to that. But  
17      this Perez interview is sort of -- kind of a little  
18      tangential. So I will let you get that in.

19              MR. DRATEL: And obviously if we put it in --

20              THE COURT: You probably just want to read it, then.

21              MR. JONAS: And just identify where it starts.

22              MR. DRATEL: Actually I have to identify it for you.  
23      So we will probably start right here at page 9, I guess. So  
24      we start with Shukri asking -- Let me just make a note.

25              THE COURT: That is where you want to start it?

1 MR. JONAS: Yes, sir.

2 MR. DRATEL: And then we go to here, and then --

3 MR. JONAS: I am sorry, Mr. Dratel.

4 THE COURT: No, we cut it here.

5 MR. DRATEL: Yes, right there. And then this goes  
6 out, this goes out, and then we include that. Great.

7 THE COURT: Is there another one?

8 MR. DRATEL: A letter, but apparently Mr. Jonas he  
9 just needs more time.

10 THE COURT: To look at it?

11 MR. JONAS: I wasn't made a aware of it until this  
12 morning.

13 MR. JONAS: If I can request--I am assuming you will  
14 do this anyway--but that you at least preface this with Agent  
15 Burns that this is the Gayle Reeves interview, so we can put  
16 it in context, so it is not just some random conversation.

17 MR. DRATEL: Sure.

18 The Government has agreed to parts -- Let's start here.

19 MR. JONAS: This is Shukri Wiretap No. 1?

20 MR. DRATEL: Yes. The part before. The Government  
21 agreed to 5 and 6.

22 MR. JONAS: I think it was an extension of what we  
23 had played.

24 MR. DRATEL: Yes.

25 MR. JONAS: And we agreed to an additional page.

1 But you had said -- I want to make sure we are clear about  
2 this. I thought you had said when you stood up that there was  
3 an additional segment of Shabib Wiretap No. 1, besides the one  
4 we agreed to, which I was not aware of.

5 MR. DRATEL: My mistake. It was 13. It is one  
6 before and one after.

7 MR. JONAS: So this is one additional page that we  
8 are in agreement with.

9 THE COURT: All right.

10 (The following was had in open court.)

11 THE COURT: Have we addressed all of the evidentiary  
12 issues remaining with Agent Burns?

13 MS. DUNCAN: Your Honor, we had one other small 106  
14 with Ashqar Wiretap No. 1, and the Government was going to get  
15 back with us this morning about whether they objected to that.

16 THE COURT: Have you had the opportunity to look at  
17 that?

18 MR. JACKS: I have gone blank right now, Your Honor.

19 THE COURT: Do you want to show them what it is?

20 MR. JACKS: The two paragraphs that are highlighted?

21 MS. DUNCAN: Yes.

22 MR. JACKS: We have no objection to that, Your  
23 Honor. There was a little bit of confusion, because it was at  
24 the bottom of a page, and I didn't know if they were going to  
25 include -- There were comments in between that were not

1 highlighted, so it wasn't clear to me if they were going to  
2 strictly put in the highlighted parts.

3 MS. DUNCAN: It is Shukri -- There is one thing  
4 in between it.

5 THE COURT: We are missing a juror also, so we are  
6 not quite ready.

7 MS. CADEDDU: Judge, can I register a strenuous  
8 objection to the temperature?

9 THE COURT: Is it too cold or too warm?

10 MS. CADEDDU: I am freezing. I had to pull out my  
11 winter clothes.

12 THE COURT: So did Jennifer. You can commiserate.

13 MS. CADEDDU: My lips are numb, my toes are numb, my  
14 fingers are numb.

15 THE COURT: Will that make you go faster?

16 MS. CADEDDU: No, Your Honor. It makes me go  
17 slower.

18 MS. DUNCAN: Your Honor, there are actually a couple  
19 of defense exhibits you withheld ruling on. It was Defense  
20 Exhibit No. 174, 1336, and 1337, so the Government could find  
21 the original, I believe. This may actually be an better one  
22 for Ms. Hollander, because I wasn't actually a part of that.

23 MS. HOLLANDER: Your Honor, No. 174 was a  
24 certificate from the Ministry of Turkey, and the other two  
25 involve the Holy Land work with the wheelchairs of America,

1     and these were the ones that -- I believe what you said, you  
2     probably remember what you said better than I do, but my  
3     memory was that the Government was going to find the  
4     originals, and if they couldn't find them, my understanding  
5     was that the copies would come in, because there was a  
6     question about the Ministry of Turkey that the only one we  
7     have has a copy of the seal, because we don't have the  
8     originals.

9             These are also the ones, just to remind you, that they  
10     have a bates number on them that is a Government bates number,  
11     because these are the ones we got from the Government before  
12     they bates stamped them.

13            THE COURT:   Mr. Jacks or Mr. Jonas?

14            MR. JACKS:   I haven't heard back, Your Honor.  I  
15     don't believe -- the two on the wheelchair, I don't believe  
16     that was in that category that we were going to look for the  
17     originals.

18            THE COURT:   Okay.

19            MS. HOLLANDER:  You may be right.

20            MR. JACKS:   The certificate from the Ministry of  
21     Turkey was, and I am just looking in my notes to see if there  
22     was any others, but I had --

23            THE COURT:   The mayor from the City of San Diego,  
24     but I think I have admitted that one already.

25            MR. JACKS:   Yes.  So the only one I know that we

1       were supposed to look for was the one from Turkey, and I  
2       haven't heard back. But I will give you a report.

3               MS. HOLLANDER: Does the Government object to the  
4       other two?

5               THE COURT: Those are the wheelchair agreements and  
6       then the thank you.

7               MR. JACKS: Yes, Your Honor; on hearsay grounds.

8               THE COURT: Those were found in the HLF offices.

9               MR. JACKS: Yes. Well, that hasn't been established  
10      in the record yet, because they have got some other bates  
11      number on them.

12              MS. HOLLANDER: That is why I thought they were part  
13      of the same -- Those two also have the FBI bates numbers,  
14      don't they?

15              MR. JACKS: There was -- The tech records, which we  
16      had no objection to, and the AMEX records which we don't have  
17      an objection to as long as it is the part that you sent.

18              MS. HOLLANDER: Okay. And there was also one other  
19      bank record, a Bank One the national security letter Bank One.

20              (Discussion amongst counsel.)

21              MR. JACKS: So the Bank One exhibit we have no  
22      objection to.

23              MS. HOLLANDER: And the AMEX exhibit and, just for  
24      the record, the Treasury exhibit.

25              THE COURT: Give me those numbers one more time, Ms.



1 Hollander. Give me those exhibit numbers.

2 MS. HOLLANDER: Well, I would if I could.

3 MS. DUNCAN: I can actually, Your Honor. Just give  
4 me one second.

5 THE COURT: All right.

6 MS. DUNCAN: It is Defendants' Exhibit No. 1017 and  
7 Defendants' Exhibit No. 1018.

8 MR. JACKS: Which one is which?

9 MS. DUNCAN: That one I don't have. It should be on  
10 the list. And there is a new exhibit, and we are just waiting  
11 for our paralegal to come up with that exhibit number and we  
12 will give it to the Court.

13 THE COURT: It looks like No. 1017 you have listed  
14 as the Bank One statements, and No. 1018 is the AMEX records.  
15 And you have no objections to those, Mr. Jacks?

16 MR. JACKS: No, sir.

17 THE COURT: Admitted.

18 MS. HOLLANDER: And the Treasury one is the one we  
19 need to assign a number to, but they don't have an objection.  
20 It is one they admitted last year.

21 THE COURT: And you have given that a new number?

22 MS. HOLLANDER: Yes, sir.

23 THE COURT: Just let us know when you get it.

24 MS. HOLLANDER: So the only ones I have left are No.  
25 174, 1336, and 1337.

1           THE COURT: The last thing we have heard is we have  
2 a juror that is about 30 minutes away. So why don't we just  
3 be in recess for a few minutes, and as soon as we find out  
4 that she is here we will come back.

5           Let's discuss -- The Government, you have provided the  
6 list of exhibits you intend to introduce through Agent  
7 Miranda, and those objections are due from the Defense today.

8           At some point, then, I need to Defense to provide the  
9 list of exhibits you expect to introduce through Agent  
10 Miranda. Go ahead and provide that to the Government so that  
11 we can get their objections.

12           And when could you do that. Mr. Westfall, we will put  
13 you in charge of that one.

14           MR. WESTFALL: Okay.

15           THE COURT: I am just asking, when could you have  
16 that list?

17           MR. WESTFALL: How long is his direct going to be?

18           MR. JACKS: I estimated his direct would be  
19 approximately a day. It could be a little bit less; it could  
20 be a little bit more.

21           THE COURT: Of course they need to get it so we can  
22 get their objections back.

23           MR. WESTFALL: Is close of business tomorrow enough  
24 time? I am speaking for people that are actually going to  
25 be -- I probably will not introduce a single exhibit through

1 him.

2 MS. HOLLANDER: I can do it by then.

3 MR. JACKS: That could be the end of his -- Part of  
4 it is we don't know how long they are going to go with Agent  
5 Miranda.

6 THE COURT: How long do you anticipate cross, Ms.  
7 Hollander? Do you know how long on your cross?

8 MS. HOLLANDER: I suspect a couple of hours.

9 MR. WESTFALL: Your Honor, I feel like we could have  
10 certainly a preliminary list of the exhibits that we will try  
11 to introduce through Agent Miranda by -- Is lunchtime tomorrow  
12 okay?

13 THE COURT: I would think they would probably need  
14 them by in the morning so that they can get their objections  
15 in. You probably would like to have them sometime later  
16 tonight, because I need to look at the objections once I get  
17 their objections in. They have got to have some time to look  
18 at them for the objections, and I have to have some time to  
19 look at them to rule on them, we are going to do any good with  
20 this.

21 MR. JACKS: It is not only the exhibits you intend  
22 to introduce, but also the ones to refer to. And the reason  
23 behind that rule is so we are not scrambling around trying to  
24 find them at the last minute.

25 THE COURT: I think all I had asked for was what

1     they intend to introduce for objections so we wouldn't have to  
2     have objections. And both sides, that is what I am asking;  
3     just those exhibits that you intend to introduce. And if  
4     there is an objection, we will try to deal with as much as we  
5     can.

6             MR. WESTFALL: Then, Your Honor, when would you like  
7     us to have it? In the morning?

8             MS. CADEDDU: Let me defer to Mr. Westfall and let  
9     him finish his thought.

10            THE COURT: Well, you have the list --

11            MS. CADEDDU: Let me make a suggestion, and I am  
12     speaking for everybody so I don't know if this will work, but  
13     we can certainly take a look at his testimony from last year  
14     and see what exhibits we admitted during his testimony last  
15     year and provide a preliminary list tonight of the exhibits  
16     that were admitted last year.

17            The problem, of course, is that the testimony doesn't  
18     always come in in the same way and emphasize the same things,  
19     so we will want to supplement that list.

20            THE COURT: Sure. And we did that with Agent Burns.  
21     I understand that. But in terms of what you can do, and what  
22     you did last time, of course, would be a good starting place.

23            MS. CADEDDU: So I think we can by -- It will have  
24     to be later this evening, obviously, because we have to have  
25     some time --

1 THE COURT: Sometime later this evening?

2 MS. CADEDDU: I want to make sure that we reserve  
3 the right to supplement that after the close of his direct.  
4 And, of course, I would also ask -- I mean, for all of these  
5 when we disclose these to the Government, it is for the  
6 purpose of objections and not for the purpose of preparing the  
7 witness.

8 THE COURT: It is solely for objections.

9 MS. CADEDDU: So I would ask that they not be shared  
10 with the witness.

11 THE COURT: Correct. I think that is the  
12 understanding.

13 Provide that sometime tonight, then, with the email list,  
14 and come back with your objections as soon as you can, maybe  
15 by lunch tomorrow. He should still be on direct, maybe, and I  
16 will have a little time to look at them before the cross  
17 starts.

18 MS. CADEDDU: Is it okay with co-counsel?

19 MS. HOLLANDER: It is okay.

20 I talked to Mr. Jacks about how he wants us to introduce  
21 the 106 on the Ashqar No. 1. We will create a new document,  
22 show it to the Government to make sure it is accurate, and it  
23 can be Defense Ashqar No. 1.

24 THE COURT: Okay.

25 MS. HOLLANDER: And do we have a new number now?

1 The other is No. 1333, the one we didn't have a number for.

2 THE COURT: That is Defense Ashqar Wiretap No. 1?

3 MS. HOLLANDER: Yes, sir.

4 THE COURT: And you are not objecting to that.  
5 Correct?

6 MR. JACKS: Correct.

7 THE COURT: So that is admitted. And then give me  
8 the last exhibit that you stated.

9 MS. DUNCAN: No. 1333. We will need to file a  
10 supplemental list with that exhibit number on it.

11 THE COURT: Okay. And the Government has no  
12 objection to that as well? Which one is that one? I think it  
13 was agreed, but I am not sure which one it is. What is  
14 Exhibit No. 1333.

15 MS. DUNCAN: I am actually finding out. There may  
16 be some confusion. So No. 1333 are the tech records that show  
17 when Mr. Abu Baker came into the country that the Government  
18 is not objecting to.

19 THE COURT: Mr. Jacks, you agree?

20 MR. JACKS: Correct.

21 THE COURT: Defense No. 1333 is admitted.

22 Let's be in recess until we hear -- Hopefully in about 20  
23 minutes, so we don't get too far away. Hopefully about 20  
24 till we will be starting.

25 We will be in recess.

1 (Brief recess.)

2 THE COURT: Ladies and gentlemen of the jury, good  
3 morning. We are ready to proceed.

4 And Ms. Cadeddu?

5 MS. CADEDDU: Thank you, Your Honor.

6 Q. (BY MS. CADEDDU) Good morning, Agent Burns.

7 A. Good morning.

8 Q. I think this morning where we left off we were going to  
9 talk about some videos. Remember?

10 A. Okay.

11 MS. CADEDDU: So could we take a look, please, at  
12 Mushtaha Search No. 7 excerpt B, please.

13 (Whereupon, Mushtaha Search No. 7, Excerpt B was  
14 played, while questions were propounded.)

15 Q. (BY MS. CADEDDU) Agent Burns, this is one of the videos  
16 that were listed on the summary chart that you had for Mufid  
17 Abdulqader, Mushtaha Search No. 7 dating from 1988. Right?

18 A. That is correct. I probably would want to check the date  
19 on here, but that is a tape that we played.

20 Q. And this is a clip, this clip B here is a clip of the  
21 band singing. Right?

22 A. Correct.

23 Q. And can you identify for the jury the band members that  
24 you see there?

25 A. Yes. Well, I don't know who one of them is, but on the

1 far left we have Fawaz Mushtaha. Next to him is Munzer Taleb.  
2 I have seen the gentleman next to him introduced, but I can't  
3 remember his name. And then we have the Defendant Mufid  
4 Abdulqader.

5 Q. So in this clip, who we see is four of the band members.  
6 Correct?

7 A. Correct.

8 Q. From 1988?

9 A. Do you want me to check the date to make sure?

10 Q. Why don't you keep the chart out there, because we are  
11 going to talk about these dates.

12 A. Yes, I believe that was '88.

13 Q. All right.

14 MS. CADEDDU: Could we take a look at Mushtaha  
15 Search No. 1, please? And that is going to be clip D to  
16 start.

17 (Whereupon, Mushtaha Search No. 1, Clip D was  
18 played, while questions were propounded.)

19 Q. (BY MS. CADEDDU) Agent Burns, this one is a little  
20 harder to see. Can you identify the folks you see on the  
21 screen there?

22 A. I recognize the Defendant Mufid Abdulqader as second from  
23 the left. It is a little bit blurry, so if we just play for a  
24 second I will tell you. That is Fawaz Mushtaha.

25 Q. Okay. And Fawaz Mushtaha was identified as the founder



1 of the band. Is that right?

2 A. I think you asked me that the other day, and I said I am  
3 not sure if he was a founder. I believe he was identified on  
4 one of these tapes as having been the founder, but I am not  
5 positive that he was.

6 Q. I think, as you said, he was identified on one of the  
7 tapes as being the founder. Correct?

8 A. I believe I recall that.

9 Q. Okay.

10 MS. CADEDDU: Could we now go to clip F, please?

11 Q. (BY MS. CADEDDU) And actually before we do that, Agent  
12 Burns, I don't remember if I asked you this, but this  
13 videotape is also you dated also to 1988. Is that right?

14 A. This was Mushtaha --

15 Q. Mushtaha Search No. 1.

16 A. From the content, I believe this was 1990.

17 Q. This is Mushtaha Search No. 1.

18 MS. CADEDDU: Could we take a look at the document  
19 camera, please?

20 Q. (BY MS. CADEDDU) And I am sorry, Agent Burns. We are  
21 going to have to switch back and forth. So do you see up  
22 there on the top where it says Mushtaha Search No. 1, 1988?

23 A. I do.

24 Q. And so this video we just watched is Mushtaha Search No.  
25 8 Does this refresh your recollection that it was 1988?

1 A. I am sorry. I thought you said it was Mushtaha Search  
2 No. 1.

3 Q. Yes. And that one here --

4 THE COURT: You stated, counsel, the last video you  
5 just watched is Mushtaha Search No. 8.

6 Q. (BY MS. CADEDDU) The one we just watched is Mushtaha  
7 Search No. 1, and it is 1988.

8 A. I believe it is 1990. I believe it should have been  
9 under the 1990 category. That is probably just a mistake in  
10 the print on the demonstrative.

11 Q. Okay. Well, we will correct that, then.

12 MS. CADEDDU: Could we take a look at clip F,  
13 please, of Mushtaha Search No. 1? And could you freeze it,  
14 please? Okay.

15 Q. (BY MS. CADEDDU) So, Agent Burns, we have identified  
16 this now as being 1990 instead of 1988?

17 A. Correct.

18 Q. And that was a little less than 20 years ago. Right?

19 A. Eighteen.

20 Q. Do you remember who the president was then? Was it  
21 Ronald Reagan then?

22 A. I would have to count back.

23 Q. Mufid Abdulqader would have been about 29 or 30, 31. He  
24 was born in 1959.

25 A. I can't remember the year of his birth, but --

1 Q. Okay. And the situation in Palestine at that time in  
2 1990 would have been about between two and three years after  
3 the beginning of the first Intifada. Is that correct?

4 A. That is correct. The Intifada began in December of 1987.

5 Q. And so in 1987 is when Hamas was created shortly after  
6 the beginning of the Intifada. Right?

7 A. Correct.

8 Q. And as of 1990, then, Israel had been militarily  
9 occupying the West Bank and Gaza for more than 22 years.

10 A. As I told Ms. Moreno, I am not an expert on the  
11 occupation, so I don't want to speak about details that I am  
12 not completely familiar with on the stand.

13 Q. Okay. You do know the occupation began in 1967. Right?  
14 With the Six-Day War?

15 A. I know that Israel had a presence as of that time, but as  
16 I stated, I am not an expert on the occupation so I don't want  
17 to speak about it under oath.

18 MS. CADEDDU: Just one moment, Your Honor.

19 Q. (BY MS. CADEDDU) And Agent Burns, I believe that you  
20 testified in another proceeding in this matter.

21 A. I did.

22 Q. And when you were testifying in that matter, you were  
23 under oath as well. Is that correct?

24 A. That is correct.

25 Q. And you understood that it was important to be truthful.

1 A. That is correct.

2 Q. And to give correct testimony to the best of your  
3 knowledge. Is that right?

4 A. That is correct.

5 MS. CADEDDU: May I approach the witness, Your  
6 Honor?

7 THE COURT: Yes.

8 Q. (BY MS. CADEDDU) Agent Burns, in that proceeding you  
9 were asked, "Now, when this was filmed, the West Bank and Gaza  
10 were under military occupation. Right?"

11 And you answered, "Yes."

12 Then the question was asked, "And in fact, the occupation  
13 continues in some form today?" And your answer was?

14 "In Gaza or the West Bank?"

15 The question was, "West Bank."

16 MR. JONAS: Your Honor, I object to reading this.  
17 This is not a proper way of doing this.

18 MS. CADEDDU: It is, Your Honor. It is inconsistent  
19 testimony with what she said today.

20 THE COURT: I am still not sure this is a proper  
21 way, but go ahead.

22 Q. (BY MS. CADEDDU) Your response was, "In the West Bank I  
23 still believe there is some occupation there." Did I read  
24 that correctly?

25 A. You did.

1           THE COURT: Counsel, that is not inconsistent with  
2 what she was saying. You were asking her from '67 to '89.  
3 That talks about '87 and going forward.

4           MS. CADEDDU: Your Honor, the witness understood  
5 when she testified before that there was a military  
6 occupation, and I was asking her to confirm.

7           THE COURT: And you asked her just now, what she  
8 didn't want to talk about, you said it continued since '67,  
9 and that is what you were asking her about here. She said she  
10 does not want to speak about that occupation since then coming  
11 up.

12          MS. CADEDDU: Your Honor, she denied there was a  
13 military occupation.

14          THE COURT: Counsel, I am not going to argue about  
15 it, but it is a different area than what you asked her about.

16 Q. (BY MS. CADEDDU) Now, let's take a look at this clip.  
17 What you see here is two people. The one on the right is  
18 Mufid Abdulqader. Right?

19 A. Correct.

20 Q. And he is playing the role of Hamas in this clip.

21 A. He is.

22 Q. And then there is another gentleman who is playing the  
23 role of the Zionist. Is that right?

24 A. I believe he is playing the role of an Israeli soldier.  
25 I think that is what he is depicting there.

1 Q. And he identifies himself, he says, "I am the Zionist."

2 A. Yes, he did.

3 Q. And these characters are actually dressed for their  
4 parts. Isn't that right?

5 A. They are.

6 Q. So Mr. Abdulqader is dressed in green, and he has got a  
7 Palestinian head scarf and he is carrying the Palestinian  
8 flag.

9 A. He is.

10 Q. And the person playing the Zionist in this skit is  
11 actually dressed as an army officer. Right?

12 A. I believe so. He has got on a green military-type  
13 outfit.

14 Q. Fatigues?

15 A. Correct.

16 Q. And he is carrying a police baton. You have seen this  
17 skit before. Right?

18 A. I have.

19 Q. Okay. Now, what I would like to do now is take a look at  
20 the words of this skit. And I am going to need the document  
21 camera because I think it is easier to do it that way.

22 MS. CADEDDU: Your Honor, may we approach for a  
23 moment?

24 THE COURT: Sure. Come on up.

25 (The following was had outside the hearing of the

1 jury.)

2 MS. CADEDDU: Your Honor, this is the transcript  
3 that the Government provided that are the closed captions for  
4 the video, and so I would like to go through it with her, and  
5 it is much faster to go through it in the written form than to  
6 play it and stop the video every time.

7 THE COURT: This is a video that is in evidence?

8 MS. CADEDDU: Yes. And this is the transcript of  
9 this video.

10 MR. JONAS: The transcript is not in evidence is the  
11 issue.

12 MS. CADEDDU: It is on the screen.

13 THE COURT: I think that is permissible. All of  
14 this is in evidence through the video because it is on the  
15 screen. You are not offering this?

16 MS. CADEDDU: No.

17 MR. JONAS: Did you get this from us?

18 MS. CADEDDU: Yes.

19 MR. JONAS: Okay.

20 (The following was had in the presence and hearing  
21 of the jury.)

22 Q. (BY MS. CADEDDU) Okay, Agent Burns, let's take a look at  
23 what the characters say and the words they use in this video.  
24 Okay?

25 A. Okay.

1 Q. Now, first up at the top Mufid Abdulqader introduces his  
2 character as Hamas. Right?

3 A. That is what he says, what you have a checkmark beside.

4 Q. And then a little further down here he says, "And I  
5 protect my land." Do you see that?

6 A. I do.

7 Q. And then the other man who has introduced his character  
8 as the Zionist, and here we see it, "I am a Zionist." Do you  
9 see that?

10 A. I see that.

11 Q. That character says, "This Hamas is a new melody that you  
12 have not gotten used to it." Do you see him say that?

13 A. I do.

14 Q. And that is because Hamas has fairly recently been  
15 created at the time this video is made. Isn't that right?

16 A. I think we were talking about 1990, so it had been about  
17 three years.

18 Q. Two or three years. And the Zionist character says, "I  
19 must take over Palestine and make it Israel." Do you see  
20 that?

21 THE COURT: I am not sure that that is on the  
22 screen.

23 MS. CAEDDU: I beg your pardon, Judge.

24 Q. (BY MS. CAEDDU) Do you see that, Agent Burns?

25 A. I do.



1 Q. I have just circled it. Isn't that right?

2 A. Yes.

3 Q. And you are aware in Israel at that time there were  
4 political parties that advocated taking over the entire  
5 territory as Israel. Isn't that right?

6 A. Yes, there were.

7 Q. And the goal of those parties, some of them, was to get  
8 rid of all the Palestinians and exclude them from that  
9 territory. Right?

10 A. And I am not familiar with which parties had which  
11 platforms but there were extremists on each side that wanted  
12 to get rid of the Palestinians and to get rid of the Israelis.

13 Q. Okay. So the answer to that question would be yes?

14 A. I don't know if you would say political parties, but  
15 there were extremists on both sides that wanted to get rid of  
16 the other parties for sure.

17 Q. Okay. Well, one of those parties was the Likud party.  
18 Right.

19 A. And I think that you have asked me about that, or someone  
20 has asked me about that party before, and I said I am not  
21 aware of their platform.

22 Q. Okay. And then further down the Zionist character says,  
23 "You want to wipe out the name of the Zionist, you yourself.  
24 Armies will not wipe out the name of the Zionist, and you are  
25 coming to erase the name of the Zionist with a stone?" Now

1     that stone reference is a reference to the Intifada.  Isn't  
2     that right?

3     A.    This person on this tape is speaking -- I can't speak for  
4     this person and say what he is referencing.  There were stones  
5     that were used in the Intifada, but I can't say for sure that  
6     that is what this person is referencing.

7     Q.    So you don't know what this means?

8     A.    If you would like me to explain the stone reference that  
9     you are trying to ask me about, I can.

10    Q.    Well, I guess what I am asking you is "you are coming to  
11    erase the name of the Zionist with a stone," that is a  
12    reference to the Intifada and the stone throwing.  Would you  
13    agree with that?

14    A.    It is a reference to the stone throwing, I would most  
15    likely guess.

16    Q.    Okay.  Now, let's take a look at the next page.  There is  
17    a reference here to Munkar and Nakir.  Do you know what that  
18    is or who they are?

19    A.    I do not.

20    Q.    The Zionist character then in this skit says, I am the  
21    Jew and I do not fight.  My daughters answer on my behalf."  
22    Would you assume that to be the purpose of the skit is to call  
23    the Israelis basically chickens, or to say that they are  
24    cowardly?

25    A.    I wouldn't want to assume.

1 Q. Okay. Now, Mufid, the character that Mufid is playing,  
2 says, "You as many as you kill of the children, elderly, and  
3 women, and the people of Palestine do not die." Do you see  
4 that?

5 A. I do.

6 Q. And then the Zionist soldier responds, "This is not your  
7 land. This is our land. And this is Yehuda and Samra and the  
8 abundant land of my forefathers." Do you know what Yehuda and  
9 Samra mean?

10 A. I believe it is an Israeli reference to parts of the West  
11 Bank.

12 Q. And Gaza, or just the West Bank?

13 A. I am not sure.

14 Q. Let's take a look on the next page. And we are still,  
15 for the record, on Mushtaha Search No. 1 clip F.

16 And now the Zionist says, the soldier says, "Do not say  
17 Intifada. This is nonsense. The sling will not get me out,  
18 nor the stone that is thrown on me." And a sling I guess is  
19 something you would use to throw a stone. Right? Like a  
20 sling shot.

21 A. Yes.

22 Q. Now, you have said -- I think there is some question  
23 about when this video dates from. Originally the documents  
24 that we looked at before the summary says 1988, but you are  
25 now saying this is 1990. Right?

1 A. When I originally testified I identified it as 1990.  
2 Apparently when the chart went off to print it got switched.

3 Q. Which is five years before Hamas is designated?

4 A. That is right.

5 MS. CADEDDU: Could we take a look at Elbarasse  
6 Search No. 32, please? That is another video. That would be  
7 clip B.

8 (Whereupon, Elbarasse Search No. 32, Clip B was  
9 played, while questions were propounded.)

10 Q. (BY MS. CADEDDU) Agent Burns, can you try -- I know it  
11 is a little hard to see, but can you try to count the number  
12 of band members you see in this clip for me?

13 A. It looks like around eight.

14 Q. Okay.

15 MS. CADEDDU: Could you please show clip H, the  
16 beginning? Thank you, sir.

17 (Whereupon, Elbarasse Search No. 32, Clip H was  
18 played, while questions were propounded.)

19 Q. (BY MS. CADEDDU) Now, Agent Burns, I think you had  
20 originally identified this video as being from 1988 also. Is  
21 that correct?

22 A. Elbarasse Search No. 32? I believe so.

23 Q. And so this one is Search No. 32. This is actually --  
24 What is going to come up in this clip is the same --  
25 essentially the same skit we saw in the previous video. Isn't

1     that right? Or similar?

2     A.    It is similar.

3     Q.    And in both this character, who is dressed differently in  
4     this skit, says, "I am the Zionist." Isn't that right?

5     A.    He does.

6           MS. CADEDDU: Could we take a look at Mushtaha  
7     Search No. 8, clip B?

8           (Whereupon, Mushtaha Search No. 8, Clip B was  
9     played, while questions were propounded.)

10    Q.    And this, Agent Burns, on the screen is Fawaz Mushtaha.  
11    Isn't that right?

12    A.    Correct.

13    Q.    And once again, we see four band members here. Is that  
14    right?

15    A.    That is correct.

16    Q.    And I guess it looks like maybe Munzer Taleb, and the  
17    other man you said you couldn't remember his name, Fawaz  
18    Mushtaha, and Mufid Abdulqader?

19    A.    It looks like it. I can't make out Munzer Taleb in this  
20    frame, but we can see it later as the tape goes on.

21    Q.    The date of this tape, if you could check, is 1990. Is  
22    that right? This is Mushtaha Search No. 8.

23    A.    It was '88 or '89.

24    Q.    Okay.

25           MS. CADEDDU: Could we take a look at the document

1 camera again, please?

2 Q. (BY MS. CADEDDU) And I think there it says 1990. Is  
3 that a mistake also, Agent Burns?

4 A. That is what I said. I think when it went to print, they  
5 flip-flopped those. I think that is just a typo on the chart.  
6 I think Mushtaha Search No. 8 should be where Mushtaha Search  
7 No. 1 is.

8 Q. Okay. I just wanted to clarify that.

9 So that would have been about -- Mushtaha Search No. 8  
10 would date from about seven years before Hamas was designated.  
11 Is that right?

12 A. About seven, yes.

13 MS. CADEDDU: Could we take a look at InfoCom Search  
14 No. 56, please? And if you could look at clip C for me.

15 (Whereupon, InfoCom Search No. 56, Clip C was  
16 played, while questions were propounded.)

17 Q. (BY MS. CADEDDU) Okay. Agent Burns, would you count up  
18 the number of band members you see on this video, please?

19 A. I believe it is seven, if you count the half a guy off to  
20 the left.

21 Q. It is a little hard to get a full frame here, so I think  
22 we will count it as seven.

23 And the date of this videotape, if you can check with me,  
24 is 1991. Is that right? This is InfoCom Search No. 56.

25 A. '91.

1 Q. 1991?

2 MS. CADEDDU: Could we take a look at clip B,  
3 please?

4 (Whereupon, InfoCom Search No. 56, Clip B was  
5 played, while questions were propounded.)

6 Q. (BY MS. CADEDDU) Now, Agent Burns, this is a skit about  
7 the Intifada. Is that right?

8 A. That is correct.

9 Q. And this person here, who I think the Government has  
10 identified as someone called Salah. Is that right?

11 A. He identifies himself on this tape.

12 Q. Okay. And he is playing an old man in this video.

13 A. Yes.

14 MS. CADEDDU: Could we have the document camera  
15 back, please?

16 Q. (BY MS. CADEDDU) It is a little hard to read, Agent  
17 Burns, because this one is kind of -- The margins are big.  
18 But in this skit Salah, the guy who plays the older character,  
19 says, "Today, today we will show the Jews a black day. Yes,  
20 of course, we are the youth of the Intifada or what?" Is that  
21 right?

22 A. Yes.

23 Q. And the reference to the youth is the reference to young  
24 people in the Intifada throwing rocks. Would you agree with  
25 that?

1 A. I think it says what it says there. He is saying, "We  
2 are the youth of the Intifada."

3 Q. Okay. And there was -- It was considered kind of a youth  
4 movement. Would you agree with that?

5 A. The Intifada?

6 Q. Uh-huh.

7 A. It was an uprising, and it involved a number of parties,  
8 and it was led by Hamas at this time.

9 Q. Well, I am not asking you about that. I am asking you  
10 about the young people. Was there -- Was it considered a  
11 youth movement? Was there a lot of discussion of the youth  
12 and the youth throwing stones?

13 A. I think you are talking about -- the term that they use  
14 to reference youth is shabab, and it is a term of art in this  
15 sense in that they consider themselves -- Like you said, this  
16 gentleman on this tape is playing an old man and he still  
17 considered himself a youth.

18 Q. Okay.

19 A. A part of the movement.

20 Q. And shabab also means guys. Right?

21 A. I have seen it translated as youth.

22 Q. And then the second part of this skit involves a  
23 character played by Mufid Abdulqader. Right?

24 A. Yes.

25 Q. Who comes into the screen. And again I apologize. It is



1 hard to read. But the older man says to Mufid Abdulqader's  
2 character, "Look here my son. This stone is from Nablus."  
3 And then he also says, "This, my son, is a stone. It is from  
4 Tulkarem." And identifies a third stone that is from Silwad?

5 A. Correct.

6 Q. And would you agree those are the stones of the Intifada  
7 and they are trying to be symbolic about the West Bank towns?

8 A. The second part of your question about West Bank towns,  
9 yes, those towns are in the West Bank.

10 Q. Okay.

11 A. I don't know about them being symbolic of the stones of  
12 the towns. I don't know about that.

13 Q. That was an inartful question. The reference to the  
14 towns, those are towns on the West Bank. This segment is an  
15 attempt to invoke the towns of the West Bank.

16 A. Those are towns in the West Bank.

17 Q. Okay.

18 MS. CADEDDU: Could we take a look, please, at HLF  
19 Search No. 71, clip A, please?

20 Q. (BY MR. CADEDDU) And actually, Agent Burns, I think we  
21 did this, but I want to make sure. InfoCom Search No. 56, the  
22 one we just looked at, the date of that is 1991. Right?

23 A. Correct.

24 Q. And that would be four years before Hamas was designated.

25 A. Correct.

1 MS. CADEDDU: HLF Search No. 71, please, clip A.

2 (Whereupon, HLF Search NO. 71, Clip A was played,  
3 while questions were propounded.)

4 Q. (BY MS. CADEDDU) Okay. Here Agent Burns, we have five  
5 band members. Is that right?

6 A. Correct.

7 Q. Okay. With Mufid Abdulqader I guess being--it is kind of  
8 hard to see--but the second one from the left?

9 A. That is correct.

10 Q. And Fawaz Mushtaha to our right, the one in the middle?

11 A. Correct.

12 Q. This clip, I think you testified earlier, and you agreed  
13 with Ms. Moreno, that there were other clips of documentary  
14 scenes that were inserted into these videos. Isn't that  
15 right?

16 A. They were there when we found the videos in the  
17 originals.

18 Q. So these are edited the way they were edited when you  
19 found them?

20 A. That is correct.

21 Q. With documentary clips in the middle?

22 A. I don't know that they are documentaries, but they are  
23 scenes from abroad that are on these.

24 Q. I just mean scenes not from the festival. I am  
25 contrasting those.

1 A. Not from the festival.

2 Q. Agent Burns, did you see where the scrolling text across  
3 the bottom, "On December 8th we ignited it with our own  
4 hands"?

5 A. I did.

6 Q. And that is a reference to the fact that the Intifada  
7 started on December 8, 1987. Is that right?

8 A. That is what that reference is.

9 Q. Agent Burns, can you see -- It is a little hard, but can  
10 you see a number of band members up on the stage? Can you  
11 count how many there are? There may be some obscured by the  
12 flag.

13 A. In the typical band uniform they wore I see four that are  
14 not obscured by the flag, and then three possible guest  
15 members dressed in the military fatigues.

16 Q. Okay. And then the flag that we see that is actually  
17 obscuring our view a little bit, that is the Palestinian flag.  
18 Right?

19 A. Correct.

20 Q. And this, Agent Burns, this is actually a clip from the  
21 festival itself and it is another skit. Is that right?

22 A. It is a clip from the festival. I think it was something  
23 short like this, so I am not sure exactly what went on.

24 Q. It appears to be a skit of Israeli soldiers beating  
25 Muslims and pushing them off the stage. Would you agree with

1     that?

2     A.    I think the little snippet was short, so it looks like  
3     people in military fatigues and they have batons, but I didn't  
4     see -- If we have more of the skit, I could probably answer  
5     your question a little bit better, but from here I can't tell  
6     that.

7     Q.    I think it is a brief segment.  Again, this video is from  
8     1991.  Right?

9     A.    What was the videotape name?

10    Q.    It is actually HLF Search No. 71.

11    A.    I think we originally said '91 and then changed it to '90  
12    when we were talking about it before, based on the content  
13    inside it.  They were celebrating the end of the year of the  
14    Intifada.  I think this is one I originally said 1991 and then  
15    corrected myself with Mr. Jonas and said 1990.

16    Q.    Okay.  So we would need to correct that also on our --

17    A.    If it said 1991, it should say 1990.

18    Q.    1990 or 1989?

19    A.    1990.

20    Q.    '90.  Okay.  Now, what we are seeing here, what just came  
21    on the screen is these would be, again, the interspersed  
22    documentary, for lack of a better term, clips of the Intifada  
23    that have been edited in.  Is that right?

24    A.    They are -- Can you repeat that one more time?

25    Q.    Sure.  These now are not the festival.

1 A. Right.

2 Q. These are clips of the Intifada.

3 A. They are clips from abroad. I don't know who put them in  
4 there, so I don't know exactly what they are clips of.

5 Q. They appear to be the Intifada.

6 A. Yes.

7 Q. And that, when we are talking about the Intifada and  
8 stone throwing, this segment of the video clip depicts stone  
9 throwing at the --

10 A. It does. If you play a little bit more, you can see the  
11 people throwing stones.

12 Q. Okay. Let's continue. And before we saw a video clip of  
13 an Israeli soldier beating a Palestinian man. Did you see  
14 that?

15 A. I did.

16 Q. Now, Agent Burns, you have reviewed this videotape.  
17 Right?

18 A. Yes.

19 Q. With the translator I guess assisting you?

20 A. The translators do the translations first, and then after  
21 we review the translation then we will watch the tape and they  
22 will make edits.

23 Q. All right. And this clip right here is a clip in which  
24 -- You see Mufid Abdulqader on the right?

25 A. I do.

1 Q. And in this clip this is another skit. Correct?

2 A. Yes.

3 Q. And in this skit he is playing the character of Yasser  
4 Arafat. Right?

5 A. I don't recall.

6 Q. Yasser Arafat is the head of the PLO. Right? Or he was  
7 before he died?

8 A. He was. He is deceased now, but he was.

9 Q. And he was the head of Fatah, which is the secular  
10 Palestinian party?

11 A. That is correct.

12 Q. Okay. These are more Intifada clips.

13 A. Yes.

14 Q. Tear gas, I guess.

15 This, Agent Burns, would appear to be a barricade up in  
16 the street. Would you agree with that?

17 A. I can't tell. If you could rewind it just a little bit  
18 and let me look at it.

19 Q. Can you see that, Agent Burns, or is it too fuzzy?

20 A. I can't really tell exactly what it is.

21 Q. But you understand in the Intifada there were times when  
22 the Palestinians barricaded off streets and gathered behind  
23 those barricades.

24 A. I have heard that.

25 Q. Okay. Thank you. I am done with this one.

1           Could we take a look -- Let's actually go back to our  
2           summary sheet, which I know is a little -- I am going to I  
3           think correct -- Perhaps you can help me here. Okay. Just so  
4           I have this right, Agent Burns, I think you said Mushtaha  
5           Search No. 1 was 1990.

6           A.     That is correct.

7           Q.     And Mushtaha Search No. 8 is the one that is 1988?

8           A.     That is correct.

9           Q.     And then HLF Search No. 71 is actually 1990, we just  
10          said. Is that right?

11          A.     Yes.

12          Q.     Now, there are a couple of videos here that we haven't  
13          talked about. I am going through these in order, as you can  
14          probably tell. There is one in 1994, Mushtaha -- I am sorry.  
15          HLF Search No. 125. Can you see that, Agent Burns?

16          A.     I do.

17          Q.     Down here?

18                 MS. CADEDDU: Could we take a look at clip A of  
19          that, please?

20                 (Whereupon, HLF Search No. 125, Clip A was played,  
21                 while questions were propounded.)

22          Q.     (BY MS. CADEDDU) Agent Burns, can you count up the  
23          number of band members it shows on the screen here?

24          A.     It looks like eight. I can't tell if the gentleman at  
25          the podium -- It looks like he was speaking. I don't know if

1 he was in the band or not. So it is either eight or nine.

2 Q. Eight or nine. And in this video, as we said, I think,  
3 is from 1994. Right?

4 A. That is correct.

5 Q. Which would have been a year before Hamas was designated.

6 A. It was October 30th, so it would have been a few months.

7 Q. Okay.

8 MS. CADEDDU: Could I have the document camera back,  
9 please?

10 Q. (BY MS. CADEDDU) There was another video that you have  
11 listed on the summary from 1994, and that is this one HLF  
12 Search No. 11. Right?

13 A. Correct.

14 Q. We are going to take a look at the transcript, the paper  
15 transcript of that. And here do you see that, Agent Burns?  
16 It says, "God willing, we will introduce you to Al-Nujoom  
17 Band."

18 A. I do.

19 Q. So that is one of the ways you dated the changing of the  
20 band's name from Al Sakhra to Al-Nujoom?

21 A. That is correct; seeing them introduced with a different  
22 name.

23 Q. And this was 1994. Right?

24 A. I believe it was December of 1994.

25 Q. And then in 1995 you have identified that Hamas was



1 designated in January of 1995. Right?

2 A. That is correct.

3 Q. And at that time it became illegal to provide material  
4 support to Hamas. Right?

5 A. Yes.

6 Q. But it didn't become illegal to talk about Hamas.  
7 Correct?

8 A. No, it did not.

9 Q. And in fact, it has never been, and continues to this day  
10 not to be illegal to talk about Hamas. Correct?

11 A. It is not illegal to talk about Hamas. Correct.

12 MS. CADEDDU: Let's take a look at HLF Search No.  
13 124. First I am going to keep the document camera for a  
14 second.

15 Q. (BY MS. CADEDDU) This would have been the first video we  
16 have seen that would postdate the designation of Hamas.  
17 Correct?

18 A. Correct.

19 Q. And that is this one right here I have just marked, HLF  
20 Search No. 124?

21 A. It is.

22 MS. CADEDDU: And I am going to ask for clip C to be  
23 played, which is actually the only clip Mufid Abdulqader  
24 appears in in this tape. Could you play that for me, please?

25 Q. (BY MS. CADEDDU) That is actually Mufid Abdulqader that

1 the screen was just on. Is that right?

2 A. That is correct.

3 Q. And now it is panning across.

4 MS. CADEDDU: And then I believe document camera,  
5 please.

6 Q. (BY MS. CADEDDU) We have one more, or actually two more.  
7 We have one in 1996, HLF Search No. 112. Do you see that one?

8 A. I do.

9 Q. And I believe you date that clip to sometime in 1996.  
10 Right?

11 A. Correct.

12 (Whereupon, HLF Search No. 112 was played, while  
13 questions were propounded.)

14 Q. (BY MS. CADEDDU) Okay. And again, we are going to take  
15 a look at the words from that clip. And in this clip we see  
16 Munzer up here. We have talked about him. That is Munzer  
17 Taleb. Right?

18 A. Correct.

19 Q. And he is one of the band members you have identified and  
20 we have identified a number of times from the videos.

21 A. Yes.

22 Q. And Munzer and the band are singing, and they say, "Under  
23 the yolk of the Jew and the occupation, I do not fear if they  
24 torture me while in detention." Do you see that?

25 A. I do.

1 Q. And then there is a later clip in which Mufid Abdulqader  
2 appears, and we are going to take a look at that, too, and  
3 then we are going to play it. Okay. Do you remember this  
4 clip, Agent Burns?

5 A. I do.

6 Q. And in this clip Mufid Abdulqader I think you said he was  
7 speaking?

8 A. He was.

9 Q. And he is standing with a microphone and he says,  
10 "Brothers and sisters, we received this message. Brothers and  
11 sisters we received this message. The women's committee sends  
12 a greeting from the bottom of the hearts to our captive Sheikh  
13 Ahmad Yassin." Do you see that?

14 A. I do.

15 Q. And Mr. Mufid Abdulqader is not a woman. Right?

16 A. No, he is not.

17 Q. And he is not probably not on the women's committee. Is  
18 that correct?

19 A. I don't know.

20 Q. Unlikely.

21 A. It is unlikely.

22 Q. And he was reading from a piece of paper in this clip.  
23 Is that correct?

24 A. He was.

25 MS. CADEDDU: Could we see the clip, please? It is

1 HLF Search No. 112-B?

2 (Whereupon, HLF Search No. 112, Clip B was played,  
3 while questions were propounded.)

4 Q. (BY MS. CADEDDU) Is there a piece of paper there in his  
5 hand?

6 A. Correct.

7 Q. And he is still reading from the piece of paper.  
8 Correct?

9 A. Correct.

10 Q. Thank you. All right.

11 MS. CADEDDU: Could we take a look -- Let's see  
12 here. The document camera again, please, for a second.

13 Q. (BY MS. CADEDDU) Now, we have come to the last of the  
14 videos that are on your summary list, HLF Search No. 14. Is  
15 that right?

16 A. Correct?

17 Q. And that video dates, according to your chart, from 1996.

18 A. Correct.

19 MS. CADEDDU: Could we see clip A, please?

20 (Whereupon, HLF Search No. 14, Clip A was played,  
21 while questions were propounded.)

22 Q. (BY MS. CADEDDU) Agent Burns, can you see how many men  
23 there are standing behind the Palestinian flag?

24 A. I think it is seven.

25 Q. Okay.

1 MS. CADEDDU: Could we take a look at clip B,  
2 please? And if you could play it.

3 (Whereupon, HLF Search No. 14, Clip B was played,  
4 while questions were propounded.)

5 Q. (BY MS. CADEDDU) Okay. Do you know who this gentleman  
6 is who is standing here and I guess singing or chanting?

7 A. I do.

8 Q. Who is that?

9 A. Mohamed Musphaka.

10 Q. And the gentleman to his right who we will see in a  
11 second that is not saying anything, is that Mufid Abdulqader?  
12 Or to our right I guess, his left?

13 A. It looks like it from here.

14 Q. And so that was Mr. Abdulqader to that gentleman's left  
15 or our right?

16 A. Yes.

17 Q. Is that right?

18 A. Correct.

19 Q. And he stood silent during the singing of this chant. Is  
20 that right?

21 A. During that portion.

22 Q. Uh-huh.

23 MS. CADEDDU: If we could have the document camera  
24 back.

25 Q. (BY MS. CADEDDU) And that, I believe, is the last of the

1 videos on this chart. Is that right?

2 A. That is correct.

3 Q. And the date on those last two that we looked at is 1996,  
4 as best you can tell?

5 A. Correct.

6 Q. Okay. Before we talk about the rest of the chart, I am  
7 actually going to turn right now to a conversation you talked  
8 about in your direct examination with Mr. Jonas, and that is  
9 Baker Wiretap No. 7. And I am going to show you that on the  
10 screen to reorient us. And this is a conversation -- Actually  
11 I think the part you put in is a conversation between Mufid  
12 Abdulqader and Akram Mishal. Is that correct?

13 A. That is correct.

14 Q. And it dates -- Let's look at the date here. Can you see  
15 that, Agent Burns? It is from July 9th, 1998.

16 A. Yes.

17 Q. Akram Mishal is actually a Holy Land employee at this  
18 time. Is that right?

19 A. He was.

20 Q. And Akram suggests to Mr. Abdulqader, he says to him,  
21 "And you start producing some sort of investment for yourself.  
22 I mean, it will be -- There is an incentive for you to have a  
23 certain percentage out of the revenue." Correct?

24 A. Correct.

25 Q. And then a little further down Mr. Abdulqader says, "I've

1     been doing this for 12 years, Akram." And then he says, "My  
2     brother, I've been working in this for 12 years." And Akram  
3     says, "To become a senior, like they say, engineer and stuff.  
4     So I expect that the best thing is for us to deal with you as  
5     -- What do you think? Either on a certain task or --" And  
6     then Mr. Abdulqader says, "Listen, listen. What do you think  
7     of you and me sitting down together to discuss this issue?"  
8     Is that right?

9     A.    Correct.

10    Q.    No resolutions come to at this meeting -- I mean in this  
11    phone call.

12    A.    No.

13    Q.    Okay. And then we are going to take a look at Abdulqader  
14    Wiretap No. 1. That conversation we just looked at, by the  
15    way, we said was 1998. Right?

16    A.    Correct.

17    Q.    And then Abdulqader Wiretap No. 1, which is one of the  
18    two that have been admitted that are from Mr. Abdulqader's  
19    lines. Right?

20    A.    Correct.

21    Q.    That is dated January 2nd, 2000. Is that right?

22    A.    Correct.

23    Q.    Now, if we turn to page 9 of this exhibit, Abdulqader  
24    Wiretap No. 1 -- Actually it is page 8, I believe. You know  
25    what? The best laid plans.

1 MS. CADEDDU: Give me one second, Your Honor.

2 Q. (BY MS. CADEDDU) All right. I take that back, Agent  
3 Burns. Let's talk about Abdulqader Wiretap No. 2.

4 A. Okay.

5 Q. And that is -- Actually it looks like the same date. Is  
6 that right?

7 A. I think we said the other one was the 2nd, didn't we?

8 Q. So it is the next day. And this conversation is between  
9 Mufid Abdulqader and Sabri. Right?

10 A. Correct.

11 Q. And Sabri is also a Holy Land employee.

12 A. I know that he was affiliated with both the Holy Land the  
13 IAP and the band, but I am not sure if he was an employee or  
14 not. I can't recall.

15 Q. And do you -- Okay. Well, anyway, he was -- The speakers  
16 are Mufid Abdulqader and someone identified as Sabri. Right?

17 A. Correct.

18 Q. Okay. And they are talking in this -- To refresh your  
19 recollection, they are talking in this excerpt about one of  
20 the volunteer fundraising trips that Mr. Abdulqader had taken  
21 to Boston and some other places. Do you recall that?

22 A. I recall the conversation. I know that -- Well, we had 1  
23 and 2. One of them was to Boston one of them was to somewhere  
24 else.

25 Q. Okay. Well, let's take a look here real quick. Okay.



1 Down here at the bottom, "I went to Hartford, first of all. I  
2 went to Boston that night." Do you see that?

3 A. I do.

4 Q. And then some discussion about Hartford, Connecticut at  
5 the top?

6 A. Correct.

7 Q. Do you remember that conversation?

8 A. I do.

9 Q. Now, if we take a look at page 9 of Abdulqader Wiretap  
10 No. 2, what we see is Mr. Abdulqader is talking to Sabri about  
11 a fundraiser that he did at the Carrollton mosque. Do you see  
12 that?

13 A. I do.

14 Q. And Mufid says, "Of course, yesterday the brothers in  
15 Carrollton had called me because they wanted me to do a  
16 fundraising for their mosque in Carrollton. So I prepared the  
17 material yesterday. I kept preparing the material yesterday,  
18 and thanks be to God I prepared it and organized everything  
19 and went over and did a fundraising for them as well, and also  
20 collected about \$35,000 to \$40,000 for their mosque." And  
21 Sabri says, "Okay. Why don't you take a percentage of what  
22 you're collecting?" Now do you remember that?

23 A. I do. You may want to scoot it over a little on the  
24 screen.

25 Q. Okay. I am trying to get it big enough so it can be

1 read, and I am losing parts of it. And what I just read is  
2 this section and this section. Is that right?

3 A. Correct.

4 Q. And let's go back. Sabri says, "Why don't you take a  
5 percentage of what you're collecting?" And Mufid says, "No, I  
6 uh" -- Do you see that?

7 A. I do.

8 Q. And then Mufid says, "If God the Almighty gives us a  
9 reward for it and accepts it purely, I'll be happy. That's  
10 all I want." Right?

11 A. Correct.

12 Q. And I would like to take a look again at the bottom part  
13 of this Demonstrative No. 19. And when I talk about the Mufid  
14 summary chart, I am talking about Demonstrative No. 19.  
15 Right?

16 A. That is correct.

17 Q. That is what we have been referencing throughout.

18 A. That is correct.

19 Q. Now, we talked last week about HLF Search No. 147, and I  
20 am just going to put that up there. That is the first one on  
21 the list here after the videos. Do you see that, Agent Burns?

22 A. I do.

23 Q. And that is a document that dates from 1997, according to  
24 the chart?

25 A. Correct.

1 Q. And I am going to zoom out so we can see it, at least  
2 what it looks like. This is the chart we talked about before.  
3 Right?

4 A. Correct.

5 Q. And I think we said that this is the one that looks like  
6 it may have been put together by -- Was it Kifah Mustapha in  
7 Chicago?

8 A. That is whose office it was found in, yes.

9 Q. And so since we have talked about that, I would like to  
10 move on to the next exhibit on this list, which is HLF Search  
11 No. 142. Do you see that, Agent Burns?

12 A. I do.

13 Q. And that one, according to your chart, dates from 1998.  
14 Correct?

15 A. Correct.

16 Q. There is about a year gap in between those two exhibits?

17 A. Correct.

18 Q. And I don't remember if we looked at this last week or  
19 not. This is actually a printout I guess of a computerized  
20 scheduling program. Is that what it looks like it is?

21 A. It is a weekly to do list. I can't tell if it was  
22 printed off of a computer or not, but obviously it is  
23 typewritten.

24 Q. Okay. And you can barely see it at the top, but does it  
25 have a name under the weekly to do list?

1 A. It says Akram.

2 Q. And this there is a notation on here--I am going to try  
3 to zoom in there--on Wednesday June 3rd of 1998 that says,  
4 "Rescheduled the trip of Mufid to San Diego June 5th in early  
5 flight to give Khutba in" -- I don't know how to say that.  
6 "Masjid Annoor." Do you see that, Agent Burns?

7 A. I do.

8 Q. And then over here Friday June 5th, the total amount  
9 raised is \$25,000. Do you see that?

10 A. I do.

11 Q. Okay. And that is an entry that is actually not talking  
12 about the band, but about one of Mufid Abdulqader's volunteer  
13 fundraising trips.

14 A. It says he was going to speak, so that would indicate, as  
15 opposed to singing in the band -- He may have sung in the band  
16 as well, but that entry indicates he was going to speak there.

17 Q. Okay. Well, let's talk about the terminology that is  
18 used over here. It says Khutba, and that is the Friday sermon  
19 at a mosque. Right?

20 A. Basically.

21 Q. So he was going to speak at a sermon at a mosque to raise  
22 money.

23 A. Correct.

24 Q. And then we are not going to look at it again because I  
25 think we already have, but there was Baker Wiretap No. 6, and

1     that is a conversation that the Government put into evidence  
2     with Haitham Maghawri about a volunteer fundraising trip to  
3     Kent in Salt Lake City. Do you remember that one?

4     A. If we are going to talk about it, I probably want to look  
5     at it.

6     Q. We are not going to talk about it. We talked about it  
7     last week, or you did. Right?

8     A. Yes.

9     Q. And that conversation took place in 1999. Right?

10    A. That is correct.

11    Q. And that involved another one of those volunteer  
12    fundraising trips taken by Mufid Abdulqader for Holy Land.

13    A. It involved a fundraising trip.

14    Q. A volunteer fundraising trip. Correct?

15    A. I don't know if he got paid for it or not.

16    Q. You don't have any evidence in the record before the jury  
17    that he got paid for it. Right?

18    A. That is correct.

19    Q. All right. So let's take a look at HLF Search No. 143.  
20    And I don't remember seeing this either, so I just want to go  
21    over it. Can you see that, Agent Burns?

22    A. I can, but if we are going to read at the bottom we may  
23    have to --

24    Q. I will zoom up. I just wanted you to see the whole  
25    thing. Is that a daily planner page again?

1 A. It is.

2 Q. And it says again at the top Akram?

3 A. Yes.

4 Q. And then down here at the bottom it says, "Followed up  
5 with Mufid, total raised in Austin \$10,000 with Riad and  
6 College Station \$3200." Right?

7 A. Correct.

8 Q. Can you read that there?

9 A. Yes.

10 Q. I kind of zoomed in a little too much. That is another  
11 one of those fundraising trips. Right?

12 A. That was a fundraising trip to the HLF, yes.

13 Q. Again, the Government didn't put in any evidence that he  
14 got paid for that trip. Right?

15 A. No.

16 Q. All right. And then we have Abdulqader Wiretap No. 1 and  
17 2. And we are not going to go through those again. Those are  
18 the two calls you went over with the jury last week. Right?

19 A. Correct.

20 Q. And in one of those, Abdulqader Wiretap No. 2 is the one  
21 we just looked at, you and I together.

22 A. Correct.

23 Q. And also I think with Mr. Jonas you took a look at that  
24 Eid bonus check. You went through that with him, the \$1,000  
25 check.

1 A. We went through that exhibit, yes.

2 Q. And Eid is a Muslim holiday. Right?

3 A. Correct.

4 Q. So the next one on this list is HLF Search No. 145, and  
5 that, you say, is a receipt for payment to Mufid Abdulqader.  
6 Right?

7 A. Correct.

8 Q. And that -- It is actually not a receipt exactly. It is  
9 a check stub, like when you print out a check there is like a  
10 bottom part.

11 A. Right.

12 Q. Let's take a look at that real quick. All right. So  
13 this check, I guess it is check No. 4311, we see over here on  
14 the right.

15 A. I do, yes.

16 Q. And it gives a date of September 12th, 2000. Correct?

17 A. Correct.

18 Q. Can you see it? And then there in the middle the  
19 description, "San Diego and Florida events." Is that right?

20 A. That is correct.

21 Q. And this is the Government's exhibit?

22 A. It is.

23 Q. It has one page?

24 A. Yes.

25 Q. Do you know what this check was for?

1 A. It says San Diego and Florida events.

2 Q. So did you take a look at any of the associated  
3 documents?

4 A. I did, but it has been a while.

5 Q. All right. Well, let's do that now.

6 MS. CADEDDU: Your Honor, at this time I am going to  
7 move Defense Exhibit No. 1351 and there is no objection, I  
8 don't think.

9 THE COURT: Yes. That has been admitted previously.

10 Q. (BY MS. CADEDDU) Okay. Agent Burns, this is the same  
11 check again. Right? That we just took a look at before?

12 A. Correct.

13 Q. And this check I would like to direct your attention to,  
14 and I am going to move it over. This is, for the record, page  
15 1 of Defense Exhibit No. 1351. Do you see that little number  
16 right down there in the bottom right of the check, Agent Burns  
17 and the \$3,489.90 figure?

18 A. It is.

19 Q. And that is the Government's bates stamp?

20 A. Correct.

21 Q. So HLDL is the Holy Land Dallas office. Right?

22 A. That is correct.

23 Q. So these would be documents that came out of the Dallas  
24 office of the Holy Land foundation?

25 A. Correct.



1 Q. And 22 would be, you all divided them up, put things into  
2 boxes, and the 22 would be reference to box 22. Right? And  
3 then these were all scanned in, and each page was actually,  
4 front and back, was assigned a separate identification number,  
5 and that is the number we see on the right.

6 A. That is correct.

7 Q. I would like to turn, if we can, to page 2 of Defendants'  
8 Exhibit No. 1351 Can you see that, Agent Burns?

9 A. I do.

10 Q. And this again is the Government's bates stamp number  
11 this is page 2 of Defendants' No. 1351. Correct?

12 A. Correct.

13 Q. And that bates number is HLDL22, which indicates it comes  
14 out of box 22 from the Holy Land Dallas office. Right?

15 A. That is correct.

16 Q. Then the second number is 2453, which is the number that  
17 identifies this particular page.

18 A. Where it came in the box.

19 Q. And do you happen to remember the bates number from the  
20 check, or shall we take a look at that, too?

21 A. Let's take a look.

22 Q. Okay. So the number on -- The bates number on the check  
23 that we just looked at is the first page of Defense Exhibit  
24 No. 1351, and also that is the entire exhibit of HLF Search  
25 No. 145 is 2452. Right?

1 A. Right.

2 Q. And then this number that appears on the second page of  
3 Defendants' Exhibit No. 1351 is 2453. Right?

4 A. Correct.

5 Q. So that shows it is the next page after the check in the  
6 box.

7 A. It does.

8 Q. And then we are going to look at just the bates numbers  
9 real quick. And then page 3 of Defendants' Exhibit No. 1351  
10 is bates No. 2454, which is again the consecutive page.  
11 Right?

12 A. Right.

13 Q. Page 4 of Defense Exhibit No. 1351 is bates numbered  
14 2456.

15 A. Correct.

16 Q. It looks like there might have been another page in the  
17 middle there. Right?

18 A. It would have been 2455.

19 Q. Right. But it is two away from the others in the scan?

20 A. Correct.

21 Q. And then 2457, that is the next consecutive number?

22 A. Correct.

23 Q. No. 2458?

24 A. Correct.

25 Q. It looks like 2459, although it is kind of cut off. Do

1     you see that?

2     A.     It looks like 2459.

3     Q.     So these pages, 2 through whatever that was, 6, those are  
4     basically the consecutive pages that appear in the box that  
5     the Government has behind the check that is Government's  
6     Exhibit No. 145.

7     A.     Correct.

8     Q.     HLF Search No. 145.

9            Okay. So let's take a look again at the check. The  
10    check is for the amount of \$3,489.90. Right?

11    A.     Right.

12    Q.     And then let's look at page 2 of Defendants' Exhibit No.  
13    1351. All right. And this appears to be a handwritten  
14    document. It says July 16th, 2000, HLF San Diego. Right?

15    A.     Correct.

16    Q.     And then it lists tickets, and it has Mufid and Ali  
17    Ahmad. Do you see that?

18    A.     I do.

19    Q.     It says \$778. Right?

20    A.     Correct.

21    Q.     Below it says Munzer, \$392. Right?

22    A.     Correct.

23    Q.     And it says "paid by Nujoom." Do you see that on the  
24    right there is a reference to Nujoom or Al-Nujoom on the  
25    right?

1 A. I can't see if it says paid to Nujoom -- I think it says  
2 "pay to Nujoom."

3 Q. It is the Nujoom I am directing your attention to. It is  
4 a reference to the band. Right?

5 A. Correct.

6 Q. And then there is another name there with it looks like  
7 the cost of a ticket, \$364.

8 A. Yes. I can't tell what that name is, but that is what it  
9 says.

10 Q. I can't either, so we won't worry about it. And then it  
11 says below 4 participants. 4 times \$250 is \$1,000. Right?

12 A. Correct.

13 Q. And so then the total we have of that is \$2,534.  
14 Correct?

15 A. Correct.

16 Q. On this handwritten document here.

17 A. Yes.

18 Q. Now, I am going to ask you to remember that \$778 ticket  
19 figure from page 2 of Defense Exhibit No. 1351, and we are  
20 going to turn to page 3. This actually looks like a travel  
21 agency invoice.

22 A. It does.

23 Q. And then it says Mufid Abdulqader and Ahmad Ali. Right?

24 A. Correct.

25 Q. And then down here in the bottom it has got the \$778

1 figure we just talked about. Right?

2 A. Correct.

3 Q. Okay. Then this is page 4 of Defendants' Exhibit No.  
4 1351. This appears to be similar to the handwritten document  
5 we took a look at before. Right? It has got fort Lauderdale,  
6 6/25/2000.

7 A. Correct.

8 Q. And it lists three participants at \$250 each. Right?

9 A. Right.

10 Q. And then expenses. And it lists here -- We don't have  
11 tickets, but we have hotel, \$143.03; car rental, \$42.26; and  
12 gas and maybe miscellaneous?

13 A. Correct.

14 Q. And that is \$20.61, for a total of \$205.90. Right?

15 A. Right.

16 Q. And then I am going to ask you to try to remember those  
17 \$143, \$42, and \$20 figures. Let's take a look at -- I don't  
18 think we are going to do those in order, but what we have here  
19 is some receipts. Do you see that?

20 A. I do.

21 Q. And it says Lois BP. Do you see that?

22 A. I do.

23 Q. And I guess that could be BP gas station?

24 A. That would be my guess.

25 Q. And then over here on the right we have Hess Express, and

1 it shows a 28 ounce hot dog, I think.

2 A. I think it is 20 ounce.

3 Q. Okay. It would be a big hot dog, 28 ounces. And then  
4 merch, which I guess would be merchandise, for a total there  
5 of \$2.44.

6 A. Correct.

7 Q. It is a little hard to read, I know. And then at the  
8 bottom of that page it says Florida turnpike toll receipt.  
9 Right?

10 A. Correct.

11 Q. And again, the bates number on this is 2457. Can you see  
12 that?

13 A. I do.

14 Q. All right. And then the page that is bates number 2458  
15 is -- It looks like it says -- This is not an invoice, but it  
16 is from Hertz. Right?

17 A. Correct.

18 Q. And then over on the side it says -- It has got a whole  
19 bunch of numbers over here, subtotal \$39, fuel and service.  
20 Right?

21 A. Correct.

22 Q. And then down at the bottom or a little further down it  
23 says adjusted \$62.10, pay \$44.81. And then even further down  
24 here there is a little notation here \$42.26. Do you see that?

25 A. I do.

1 Q. And I am actually going to go back to the handwritten  
2 document. Do you see that \$42.26 there?

3 A. I do.

4 Q. And then the \$20.61 would that be approximately what  
5 those three little receipts totaled up to?

6 A. I would need a calculator.

7 Q. Well, take my word for it. It is actually 16 cents off.  
8 He didn't add the tax on it.

9 A. All right.

10 Q. Let's go back then to the last page of this exhibit,  
11 which is bates number 2459. This is one that was hard to  
12 read. Do you see that?

13 A. I do.

14 Q. This looks are like a credit card bill.

15 A. It does.

16 Q. And the cardholder is Mufid Abdulqader.

17 A. Right.

18 Q. It is kind of hard to see, I have a Braums Ice Cream in  
19 Richardson Texaco, Citgo, and then Tampa Airport Hilton. Can  
20 you see that about three down?

21 A. I do.

22 Q. It is kind of above the Blockbuster and below the Citgo.  
23 And if we scroll across the dollar figure, there is \$143.03.  
24 Right?

25 A. Correct.

1 Q. Okay. And that figure once again, if we go back to the  
2 Florida trip, handwritten \$143.03 is the same figure we see on  
3 this receipt. Right?

4 A. Correct.

5 Q. So these receipts that we see that constitute Defense  
6 Exhibit No. 1351 are the receipts that underlie the check that  
7 is actually Holy Land Search No. 145. Government's exhibit  
8 Holy Land Search No. 145. Correct?

9 A. I can't say for sure that they underlie it, but they  
10 certainly relate to the two trips to San Diego and Florida  
11 referenced on that trip.

12 Q. Those are the receipts for the expenses.

13 A. That he turned over to them, but I would want to add them  
14 up and see, you know -- They relate to it.

15 Q. We can certainly -- Do you have a pen up there?

16 A. I don't.

17 Q. We can certainly add them up. And in fact I should have  
18 done that. I apologize. It happens that I have a pencil.

19 MS. CAEDDU: May I approach, Your Honor?

20 THE WITNESS: A calculator would be better.

21 Q. (BY MS. CAEDDU) I agree. It is a math test. So let's  
22 take a look. And if you, Agent Burns, could write down  
23 \$2,534.

24 A. I guess my question is before I add all these up, if we  
25 could look at the top, because I thought it said at the top



1     that the \$778 was supposed to be paid to the travel company.  
2     We can add them up. I just wanted to see if all of these --  
3     because I think what you are asking is if this amount should  
4     have been paid to Mufid Abdulqader. And based on this, it  
5     just said pay to the travel company, so I am confused.

6     Q. Well, I mean, what we have is what we have, so let's take  
7     a look at the number on the bottom and add them together,  
8     shall we?

9     A. Okay.

10    Q. \$2,534. Got that number?

11    A. I do.

12    Q. And then \$205.90?

13    A. Okay.

14    Q. And those two figures added together, I hope, I think,  
15    total -- I did it last night but I had a calculator. They  
16    total \$3,489.90.

17    A. I had \$2,534 plus \$205.90 equals \$2,739.90. And I think  
18    that included what it indicated like \$250 per band member per  
19    event. That was not explained.

20    Q. I apologize. You are right. Okay. Let's do this.  
21    \$2,534 plus--you are correct--\$205.90, plus \$750.

22    A. And those are -- That is the three payments of \$250 per  
23    band member?

24    Q. That is correct. Tell me what you get?

25    A. Well, it is close. So I was adding \$2,739.90 plus

1       \$750.00.   \$3,489.90.

2       Q.     There you go.   And that is the number.   That is the  
3       amount on the check.   Is that right?

4       A.     Correct.

5       Q.     Okay.   Agent Burns, I would like to talk -- Let's see.   I  
6       have got my papers all mixed up here.   There is one more on  
7       our summary chart, and that is this one, No. 146.   And I think  
8       we have HLF Search No. 23, but I think we are going to have  
9       somebody else talking about that later.   Is that right?

10      A.     I believe so.

11      Q.     All right.   So HLF Search No. 146 is from 2001, and it  
12      has an entry showing Abdulqader at a fundraiser in San Diego.  
13      Is that what it says?

14      A.     Correct.

15               THE COURT:   Let's go ahead and take the morning  
16      break.   Be back at 11:20.

17               (Whereupon, the jury left the courtroom.)

18               THE COURT:   We will be in recess until 11:20.

19                               (Brief Recess.)

20               THE COURT:   Ms. Cadeddu?

21               MS. CADEDDU:   Thank you, Your Honor.

22      Q.     (BY MS. CADEDDU) All right.   Agent Burns, I think we  
23      were at the last entry we were going to talk about today on  
24      the bottom of the summary chart.   Right?   Down here, 2001, HLF  
25      Search No. 146.   Do you see that?

1 A. I do.

2 Q. Okay. Let's take a look at that. And again, this looks  
3 like some sort of calendar entry, as best we can tell?

4 A. This looks a little bit different than the others. It  
5 looks a little more like it is for a specific event, but it  
6 definitely has your time and other information on it. It is a  
7 little different than those calendar entries.

8 Q. And then at the bottom it lists -- First it says date,  
9 location of the event, and this is from it looks like June  
10 16th, 2001.

11 A. That is correct.

12 Q. And the location in San Diego. And then it has got a  
13 list of speakers, tickets, and how many will be issued or they  
14 will try to sell, fliers and posters, and second from the  
15 bottom it says band. Do you see that?

16 A. I do.

17 Q. It says Mufid, Monzur, Sabri, and Kifah. Right?

18 A. Correct.

19 Q. And Mufid is my client, Mufid Abdulqader. And Monzur is  
20 Munzer Taleb. We talked about him before?

21 A. That is correct.

22 Q. We identified him from the videos?

23 A. That is correct.

24 Q. Sabri we talked about as someone who was in the band  
25 occasionally.

1 A. Correct.

2 Q. And then Kifah is Kifah Mustapha from Chicago. We talked  
3 about him, too. Right?

4 A. Right.

5 Q. I want to turn to a couple of other -- actually one other  
6 document that you looked at earlier in your direct examination  
7 testimony, and that is Holy Land Foundation Search No. 2. Do  
8 you recognize this document?

9 A. I do.

10 Q. It is hard to see. This document is a Holy Land employee  
11 list. Right?

12 A. That is correct.

13 Q. And so we have got down this left side a list of names.  
14 Right?

15 A. That is correct.

16 Q. And then across the top -- I am moving it this way  
17 because it is so small it is hard to see.

18 A. I understand.

19 Q. Here if we pan across, we can see there are different  
20 years. Right? Starting with 1990. And it would appear that  
21 the years correspond to the years that the particular people  
22 on the row down the side worked for the Holy Land Foundation.  
23 Is that right?

24 A. Well, on the far right I believe is the column that lists  
25 date of hire, although we have established a couple of those

1     were off a little bit, but I think that is where you look to  
2     see generally the date of hire.

3     Q.    So the right hand column is date of hire and across the  
4     top or across the rows it shows what the salary was for each  
5     of those years?

6     A.    Yes.

7     Q.    For each of those employees?

8     A.    Yes.

9     Q.    Sorry.  I didn't mean to interrupt you.

10    A.    Okay.

11    Q.    And you have -- This is a Government exhibit.  Right?

12    A.    That is correct.

13    Q.    And you have reviewed this, of course --

14    A.    Yes.

15    Q.    -- in preparation for your testimony, and even before  
16    that.

17    A.    That is correct.

18    Q.    And Mufid Abdulqader's name does not appear on this list.  
19    Is that right?

20    A.    That is correct.

21    Q.    It would appear that it is alphabetical by first name.  
22    Is that right?

23    A.    That is what it looks like.

24    Q.    And so if we pan down here to the Ms, you can see some  
25    other names but no Mufid Abdulqader.  Right?

1 A. Correct.

2 Q. Okay. And Mufid Abdulqader was not on the Holy Land  
3 board of directors.

4 A. No, he was not.

5 Q. His name is not listed on any of the Holy Land Foundation  
6 minutes.

7 A. None that we have discussed here.

8 Q. He didn't have a desk at the Holy Land Foundation office?

9 A. That is correct.

10 Q. Didn't have a telephone?

11 A. That is correct.

12 Q. Didn't have a computer?

13 A. That is correct.

14 Q. And during the whole time that he was a Holy Land  
15 volunteer fundraiser he was actually employed, as you know, by  
16 the City of Dallas. Correct?

17 A. He was employed by the City of Dallas from 1995 until  
18 approximately 2001, I believe.

19 Q. Okay. And he was a senior engineer with the City of  
20 Dallas in their public works department. Correct?

21 A. That is my understanding.

22 Q. And his name isn't on any of the Holy Land Foundation  
23 wire transfer forms?

24 A. The ones that we are talking about as far as the money  
25 going overseas?

1 Q. Yes. His name is not on any Holy Land Foundation wire  
2 transfer authorizations.

3 A. That is correct.

4 Q. He is not a signer on any Holy Land Foundation checks.

5 A. That is correct.

6 Q. And actually I think you said this already, but he is an  
7 American citizen. Right?

8 A. Yes, he is.

9 Q. And he moved to the United States in about 1980. Is that  
10 your understanding?

11 A. Early '80s. I am not sure of the exact year.

12 MS. CADEDDU: Thank you, Your Honor. Pass the  
13 witness.

14 THE COURT: Thank you.

15 Ms. Hollander?

16 MS. HOLLANDER: Yes, sir.

17 CROSS EXAMINATION

18 By Ms. Hollander:

19 Q. Good morning, Agent Burns.

20 A. Good morning.

21 Q. It is morning. I will try this again, if we don't freeze  
22 to death.

23 A. Okay.

24 Q. Agent Burns, I am going to start going in a little bit  
25 different order this time. But kind of where we left off, you

1 had mentioned that Shukri Abu Baker is also called Abou  
2 Mohamed. Right?

3 A. Yes, he is.

4 Q. All right. And Shukri is a citizen of the United States,  
5 isn't he?

6 A. He is.

7 Q. But he was born in Brazil. Correct?

8 A. I think that is correct, but I am not positive on that.

9 Q. Now, I want to go in chronological order. We are going  
10 to -- I don't want to leave this up because it blocks  
11 everybody's view, but we are going to start in 1985. Okay?

12 A. Okay.

13 Q. And that is actually off this chart, but ten years before  
14 Hamas was designated. Okay?

15 A. Okay.

16 Q. Now, you agree that the date that Hamas was designated as  
17 a specially designated terrorist and the date that Hamas was  
18 designated a foreign terrorist organization are important  
19 significant dates, are they not?

20 A. Yes, they are.

21 Q. And you testified on direct that on your summary charts,  
22 on some of your summary charts you actually added the two  
23 lines showing those dates. Correct?

24 A. Yes, we did.

25 Q. Okay. But you didn't include that information on all of



1 the charts, did you?

2 A. I am not sure. I thought they were on all the financial  
3 charts, but maybe not on the really early ones like the 1988  
4 and 1989 disbursements, because those are self-explanatory  
5 that those are for those years.

6 Q. Let's just look at those just to make sure. One of the  
7 charts is K&A Trading. Correct?

8 A. Correct.

9 Q. And that one doesn't have the dates on it, does it?

10 A. No. And I am sorry if there was some confusion. I  
11 thought we were talking about the charts of the HLF's money  
12 being wired overseas to the committees, the charts we  
13 introduced that last day that happened over a number of years.

14 Q. Okay. But this chart doesn't have the date on it, does  
15 it?

16 A. No, it does not.

17 Q. So that would be correct to add to it, wouldn't it?

18 A. You can add it, yes.

19 MS. HOLLANDER: Your Honor, since I changed the  
20 Government's exhibit, I would like to introduce this as  
21 Defendants' K&A.

22 THE COURT: You are calling it Defense K&A?

23 MS. HOLLANDER: I am calling it the same thing the  
24 Government calls it for convenience, but it is just the  
25 Defense.

1 THE COURT: Okay. Mr. Jonas?

2 MR. JONAS: I guess I am kind of confused. Is this  
3 being offered as a demonstrative? Ms. Hollander is the one  
4 that testified about it.

5 MS. HOLLANDER: No, I believe Agent Burns just  
6 testified that those dates were correct, and I added them to  
7 the chart, Your Honor, and I move this as an exhibit.

8 THE COURT: Okay. Objection to the chart?

9 MR. JONAS: Is it being offered as a demonstrative  
10 or is it being offered as a substantive --

11 MS. HOLLANDER: It is being offered as a substantive  
12 exhibit, Your Honor.

13 MR. JONAS: Ours is in as a 1006 summary.

14 THE COURT: So she is offering it also in the same  
15 way as a substantive.

16 MR. JONAS: We object to it as a 1006 summary  
17 because what she wrote doesn't summarize the voluminous amount  
18 of evidence.

19 THE COURT: The exhibit is in. I will overrule that  
20 objection and admit that with that additional information.  
21 That is admitted.

22 MS. HOLLANDER: Thank you, Your Honor.

23 Q. (BY MS. HOLLANDER) Now, you also have a summary chart,  
24 it is a three-page chart and it is entitled "payments between  
25 Marzook and Defendants." Correct?

1 A. Correct.

2 Q. Can you see this well enough to know that that is your  
3 chart?

4 A. Yes.

5 Q. Okay. And there are three pages to that chart. Correct?

6 A. Correct.

7 Q. And that summary ends on, it is hard to see, but  
8 12/26/1990. Correct?

9 A. That is correct.

10 Q. All right.

11 A. Well, on that page I think this was one of those charts  
12 where the transactions, because we were dealing with multiple  
13 recipients, you will see if you look at it there would be a  
14 set of transactions between two parties, and they would be in  
15 chronological order. So I think if you look back you are  
16 going to have some dates later on between the HLF and Marzook  
17 in '92.

18 Q. Right. You are correct. And here is the '92. Right?

19 A. That is correct.

20 Q. But the latest date on there is the 1992 date. Correct?

21 A. I believe so.

22 Q. Okay. Do you have any question about that? Do you need  
23 to look at that?

24 A. No, I believe that is correct.

25 Q. It is correct, based on the documents you reviewed.

1 Right?

2 A. That is correct.

3 Q. I mean, you intended it to be correct. Correct?

4 A. That is correct.

5 Q. All right. So even the 1992, that also was before Hamas  
6 was designated in 1995. Correct?

7 A. Correct.

8 Q. And before it was designated in 1997.

9 A. That is correct.

10 Q. So it would be correct to add, as you did to those other  
11 summary charts, to add that those two dates are correct,  
12 wouldn't they?

13 A. That is correct, yes.

14 MS. HOLLANDER: Your Honor, I move this as  
15 Defendants' Exhibit Marzook/Defendants, a summary. I am  
16 moving it into evidence.

17 THE COURT: Marzook/Defendants?

18 MS. HOLLANDER: Yes, sir.

19 THE COURT: Mr. Jonas?

20 MR. JONAS: No objection, Your Honor.

21 THE COURT: Admitted.

22 Q. (BY MS. HOLLANDER) And you also introduced one called  
23 Occupied Land Fund 1988 disbursements. Correct?

24 A. Correct.

25 Q. And that is this one. Correct?

1 A. That is correct.

2 Q. And this one is four pages.

3 A. I would have to look to count, but I am assuming you are  
4 correct.

5 Q. Okay. And tell me if you need to look at the whole  
6 thing, but I think every single date on here is 1988.

7 A. That is correct. It was a 1988 disbursement, so --

8 Q. So that explains that, doesn't it?

9 A. Yes.

10 Q. So that one, too, if we add the dates that Hamas was  
11 designated, that would be accurate, wouldn't it?

12 A. Yes.

13 Q. So adding that at the end of your chart. Okay.

14 A. Okay.

15 MS. HOLLANDER: Your Honor, we will move to  
16 introduce that as OLF 1988.

17 THE COURT: Mr. Jonas?

18 MR. JONAS: No objection.

19 THE COURT: Admitted.

20 Q. (BY MS. HOLLANDER) I think we have two more, Agent  
21 Burns. You also had a summary chart of Occupied Land Fund  
22 1989 disbursements. Correct?

23 A. Correct.

24 Q. And that is this one. Correct?

25 A. Correct.

1 Q. And since it is 1989 disbursements, that one is three  
2 pages, and everything on it is 1989. Correct?

3 A. That is correct.

4 Q. Just to speed things up, I have used some ellipses, but  
5 that is accurate information as well, isn't it?

6 A. Correct.

7 MS. HOLLANDER: Your Honor, I move this one as  
8 Defendants' OLF 1989.

9 THE COURT: Mr. Jonas?

10 MR. JONAS: No objection.

11 THE COURT: Admitted.

12 Q. (BY MS. HOLLANDER) And then we have -- you made one  
13 called payments from Marzook to IAP. Correct?

14 A. Correct.

15 Q. And that is this one. Correct?

16 A. Yes.

17 Q. And the dates on there, '85 -- Oh, that one -- I think I  
18 actually typed it on this one, being a little ahead of myself,  
19 being that the latest date on that is '99. Correct?

20 A. Correct.

21 Q. So if we add the designations on there, that would be  
22 accurate, too, wouldn't it?

23 A. Yes.

24 MS. HOLLANDER: Your Honor, I move this one into  
25 evidence as Defendants' Marzook/IAP.

1 THE COURT: Mr. Jonas?

2 MR. JONAS: No objection.

3 THE COURT: Admitted.

4 Q. (BY MS. HOLLANDER) We have one more. And payments from  
5 Marzook to UASR. Do you remember that one?

6 A. I do.

7 Q. Okay. And that is it?

8 A. Correct.

9 Q. And the dates on there are all 1992. Correct?

10 A. That is correct.

11 Q. You have a good memory. So that was before Hamas was  
12 designated also. Right?

13 A. That is right.

14 Q. So if I add that, that would be accurate. Correct?

15 A. It would be.

16 MS. HOLLANDER: We will mark this one, Your Honor,  
17 and I move this into evidence as Defendants' Marzook/UASR.

18 MR. JONAS: No objection.

19 THE COURT: Admitted.

20 MS. HOLLANDER: Thank you.

21 Q. (BY MS. HOLLANDER) Now, I want to talk about something a  
22 little bit different.

23 A. Okay.

24 Q. But still keeping in the same time period.

25 A. Okay.

1 Q. Okay. You have a summary chart, and we are going -- and  
2 I am going to use the Government's for now just because I have  
3 highlighted it so it will be easier for us to talk about.

4 A. Okay.

5 Q. And it is your summary chart of the payments between  
6 Marzook and the Defendants. Okay?

7 A. Okay. The one we already relabeled or --

8 Q. Well, I am using yours.

9 A. Okay.

10 Q. Now, this chart shows six checks to Shukri. Is that  
11 correct? And I will show you where they are.

12 A. I was going to say I would need to count them.

13 Q. Okay.

14 MS. HOLLANDER: May I approach, Your Honor?

15 THE COURT: Yes.

16 THE WITNESS: Okay. That is correct, six.

17 Q. (BY MS. HOLLANDER) Thank you. Now, just for the jury,  
18 the little numbers with the circles are the ones I added just  
19 so we can find them. Right?

20 A. That is right.

21 Q. Those weren't on your chart?

22 A. That is correct.

23 Q. But the one that says circle, No. 1, that is the first  
24 check to Shukri. Correct?

25 A. That is correct.



1 Q. And the second one where I have a No. 2?

2 A. Yes.

3 Q. And then these four additional ones. Correct?

4 A. Correct.

5 Q. Now, those checks were all written between April 1985 and  
6 July 1988. Correct?

7 A. Correct.

8 Q. Okay. And we are still now several years before Hamas  
9 was ever designated. Correct?

10 A. Correct.

11 Q. And most of them were written for relatively small  
12 amounts?

13 A. Yes, they were.

14 Q. There was one for \$243.97. And we will look at them here  
15 in a minute. Okay?

16 A. Okay.

17 Q. And the largest one was for \$1200?

18 A. Yes.

19 Q. There was another one for about \$139? Do you need to  
20 look at those?

21 A. I don't have the amounts memorized for sure.

22 Q. I will get back to them so you can see them. But you  
23 didn't total them on the chart, did you?

24 A. No, we didn't.

25 Q. Okay. Would you take my word for it that they total

1 approximately \$1,886?

2 A. I would think that sounds about right, but we did not  
3 total them.

4 Q. Now, your chart, this chart where it says authorization,  
5 that means who either authorized or signed the check.  
6 Correct?

7 A. Based on -- It depends on the bank records.

8 Q. Right. If you have a signed check --

9 A. Correct.

10 Q. -- then it means the person who signed it. Right?

11 A. Correct.

12 Q. With some of the NAIT records it means whoever authorized  
13 NAIT to pay the bill. Correct?

14 A. It could be on correspondence and things like that.

15 Q. Correct. So the word authorization on here basically can  
16 mean two different things. It can mean -- It is not a trick.  
17 I am just trying to understand it. If you have a signature on  
18 a direct check, that is what it means, who signed the check.

19 A. If there was an individual who signed the check, then  
20 that should be included in the authorization --

21 Q. Right. Okay. But then if you -- Okay. We will get into  
22 the other meaning of it a little bit later.

23 Now, this was a joint account for Mr. Abu Marzook and Mr.  
24 Elbarasse. Is that correct?

25 A. That is correct.

1 Q. Okay. And several of these exhibits deal with the checks  
2 written from that joint account. Correct?

3 A. Let me back up. I want to make sure, because Mr. Marzook  
4 had a number of accounts, and if we can look at the bank  
5 account chart just so I know, because he had some checking  
6 accounts that were individual, some with his wife, and some  
7 with Mr. Elbarasse, so I don't know offhand if the First  
8 American Bank was a joint account or not. I would need to see  
9 the chart just to refresh my memory.

10 Q. Well, I think I will be able to -- I don't know if I have  
11 that chart here, but I think I will be able to refresh your  
12 memory in another way. And the checks would do it. Is that  
13 correct?

14 A. That is correct.

15 Q. That is how I was planning to do it.

16 A. Yes.

17 Q. Okay. If we go back to -- Bear with me a minute here. I  
18 need page 4 of the Marzook/IAP, and I will just use this one  
19 here.

20 So if we look at the last two entries on page 4 of  
21 Defendant Marzook and IAP --

22 MS. HOLLANDER: Something is wrong with my exhibit  
23 here, Your Honor. Hold on just a minute. I am sorry.

24 Q. (BY MS. HOLLANDER) I may have to come back to this one.  
25 Let me ask you this. Can you identify Mr. Marzook's signature

1 and Mr. Elbarasse's signature? You can, can't you?

2 A. Yes, based on the signature cards we saw I think when I  
3 was testifying, Mr. Jonas asked me about it.

4 Q. Okay. So this is one of the checks from the IAP account.  
5 Correct?

6 A. Well, it was made out to the IAP.

7 Q. I am sorry. From the joint account?

8 A. That is correct.

9 Q. And whose signature is that?

10 A. That is Marzook's signature.

11 Q. And here is another check from the same account.  
12 Correct?

13 A. Correct.

14 Q. And whose signature is that?

15 A. I believe if we look at the signature card on the bank  
16 record, it looks a little bit different than Mr. Elbarasse's  
17 signature so we would want to compare it to it, but I believe  
18 those are the only two signatories on the account.

19 Q. So this one is Elbarasse and not Marzook?

20 A. It was not Marzook.

21 Q. Since there were only two, we all assume this one is  
22 Elbarasse. Okay?

23 A. Okay.

24 Q. That is what you assumed?

25 A. That is what I assumed.

1 Q. Okay. Good enough. Now, I want to go back to your  
2 chart, Marzook and the Defendants. Well, maybe I will  
3 just -- Yeah, your chart. And let's go back and look at the  
4 checks here, the payments to Shukri. Okay?

5 A. Okay.

6 Q. Now, the first one -- It may not be the first one. There  
7 it is. The first one is check No. 120. Do you see that?

8 A. I do.

9 Q. Okay. And that one was signed by Mr. Elbarasse.  
10 Correct?

11 A. Again, I think if we look at the signature card, his  
12 signature is a little bit different here than it is on the  
13 signature card, so -- I know that there were only two  
14 signatories, but I don't think it looks exactly the same.

15 Q. It is not Mr. Marzook, is it?

16 A. It is not Mr. Marzook.

17 Q. And the second one is 147. Correct?

18 A. Correct.

19 Q. And if you look at that check, that is not Mr. Marzook  
20 either, is it?

21 A. It is not.

22 Q. So if going on your assumption that there were only two  
23 people, then that would be Mr. Elbarasse. Correct?

24 A. My assumption would be something, but testifying that  
25 that it is Mr. Elbarasse, I would be uncomfortable doing that

1     because I am not certain that it was.

2     Q.     But you know it wasn't Mr. Marzook.

3     A.     That is correct.

4     Q.     Now let's look at the other six.   The next one is 148.

5     Correct?   Check No. 148.

6     A.     Correct.

7     Q.     Do you see that there?

8     A.     I do.

9     Q.     And that is also on this joint account.   Correct?

10    A.     Correct.

11    Q.     And that is also not Mr. Marzook.

12    A.     Correct.

13    Q.     And then the check for \$1200, the largest, that one

14    didn't have a check number, did it?   This was the check.

15    Right?   It doesn't have a check number.   It looks like it is

16    like a bank check or temporary check.

17    A.     It looks like a temporary check.

18    Q.     Okay.   And that one also is not signed by Mr. Marzook.

19    Correct?

20    A.     Correct.

21    Q.     And the fifth one, this is also on this joint account.

22    Correct?

23    A.     It is.

24    Q.     And that one also is not signed by Mr. Marzook.

25    A.     Correct.

1 Q. And the last one of your list of checks to Shukri is  
2 check No. 205. Correct?

3 A. Correct.

4 Q. And that is that check. Correct?

5 A. Correct.

6 Q. And that is not Mr. Marzook.

7 A. No.

8 Q. Too much paper. Sorry.

9 So, all of these checks were dated before, well before  
10 Hamas was designated. Correct?

11 A. Correct.

12 Q. And you have -- you also pointed to the fact that the  
13 Occupied Land Fund wrote three checks to Marzook and his wife.  
14 Correct?

15 A. I believe that number is correct.

16 Q. That would be on -- Do you remember which summary chart  
17 that is on?

18 A. I think it was on Marzook/Defendants, because I think we  
19 had transactions going both ways.

20 Q. That is where I thought it was, too. Somewhere we lost  
21 the first page of that. We may have to get that from the  
22 Government here.

23 MS. HOLLANDER: Can you pull up the first page of  
24 the payments between Marzook and the Defendants? I found it.  
25 Never mind. I just have too many pieces of paper that all

1 look alike.

2 Q. (BY MS. HOLLANDER) So this is where we would find it.  
3 Correct?

4 A. Yes.

5 Q. And now, this one you have two of those checks that I  
6 have highlighted that say authorized by Shukri. Now, in that  
7 case what you are talking about is not a check that was  
8 actually signed by Shukri. Correct?

9 A. That is correct. The NAIT records, they did things  
10 differently, so it was correspondence.

11 Q. Right. So this is the second use of the term authorized.

12 A. Right.

13 Q. And one of those checks was written to Marzook. Correct?

14 A. That is correct.

15 Q. And then two of them were written to Nadia Elashi.  
16 Correct?

17 A. Correct.

18 Q. And Nadia Elashi is Mousa Abu Marzook's wife. Is that  
19 correct?

20 A. That is correct.

21 Q. So the two that were authorized by Shukri went to Ms.  
22 Elashi. Correct?

23 A. They did.

24 Q. Right. And the one that went to Marzook you don't have  
25 authorized by Shukri, do you?



1 A. It is not on there, no.

2 Q. Now, I want to, still talking about around the same time,  
3 draw your attention to some phone records that you introduced.  
4 Okay?

5 A. Okay.

6 Q. And you did a summary chart, you have a big one, I think,  
7 and I will just use the little version. Okay?

8 A. Okay.

9 Q. This was your chart Marzook/Defendants phone calls.  
10 Correct?

11 A. That is correct.

12 Q. Now, according to your chart, what you have here is that  
13 calls were placed from the telephone number registered to  
14 Marzook. Correct?

15 A. Correct.

16 Q. To the phone number registered to Shukri Abu Baker.  
17 Correct?

18 A. Correct.

19 Q. And it was 25 times between January 1989 through January  
20 1990. Correct?

21 A. Correct.

22 Q. Now, your chart doesn't have any calls going the other  
23 way, does it?

24 A. It does not.

25 Q. Okay. And in fact, the vast majority of those calls, the

1 calls on your chart right here, took place in a four-month  
2 period between January and April 1989. Correct?

3 A. I would need too look at the records because they are not  
4 broken down here. I don't remember because they are not  
5 marked down when each took place.

6 Q. You have the underlying documents, don't you?

7 A. Yes.

8 Q. But you didn't break that down in this chart, did you?

9 A. No. We tried to make it as simple as possible.

10 Q. But you could go back and count them up.

11 A. Yes, the exhibits we have you can go can through.

12 Q. That is about a 160-page exhibit?

13 A. I think there were several exhibits. I guess that was  
14 just one. It is a large exhibit.

15 Q. Okay. And now we are still six years before Hamas was  
16 designated. Correct?

17 A. Five, I believe.

18 Q. Five years. Okay. The latest call on your chart is  
19 1992. Correct?

20 A. For which individual? Because I think that the --

21 Q. The calls --

22 A. The time period noted on Mohammad El-Mezain was through  
23 January of '93.

24 Q. So that is the latest one, but that is Mr. El-Mezain.  
25 Correct?

1 A. That is correct.

2 Q. But for Shukri and for Holy Land, the latest one is 1992.  
3 Correct?

4 A. Yes. August '92 was the latest, and that was actually  
5 HLF, a call from that office to Marzook.

6 Q. And you did look at all these calls on your underlying  
7 documents, didn't you? You had to do that to make this chart.  
8 Right?

9 A. We looked at the underlying documents to make the chart,  
10 yes.

11 Q. So you know that as many as half of the 25 calls lasted  
12 for less than a minute, don't you?

13 A. I can't recall how long they lasted. I know that some of  
14 them were short. They could have been faxes. I am not sure.

15 Q. And you don't know who placed the calls, do you? You  
16 can't tell from this who placed the calls.

17 A. You can't tell from the phone records which individuals  
18 picked up the phone.

19 Q. And you don't know what individual received the calls  
20 either, do you?

21 A. We weren't there, so there is no way --

22 Q. You don't know why the calls were made, do you?

23 A. No.

24 Q. And, in fact, you don't even know whether they were calls  
25 or faxes. Correct?

1 A. I would say, based on the length of the shorter calls,  
2 they were probably some faxes and some phone calls.

3 Q. Okay. Now, we haven't frozen yet so we will keep going.  
4 I don't know how cold it is up there, but if my hands shake,  
5 it is because they are ice.

6 I want to move to a different subject.

7 A. Okay.

8 Q. I want to look at the document the Government introduced  
9 as Illa Falistine No. 1.

10 A. Okay.

11 Q. And it is this document. Are you familiar with that?

12 A. Yes.

13 Q. Okay. That was a portion of a magazine. Correct?

14 A. That is correct.

15 Q. And this was published in 1989 or 1990. Correct?

16 A. I believe it was 1990, but we can check the translation  
17 to confirm that if we need to.

18 Q. Okay. But it was 1990, or you think it was.

19 Okay. Now, you see in here, one of the things that you  
20 talked about on direct was that the Occupied Land Fund, which  
21 was -- we have been using -- saying the Holy Land Foundation,  
22 but the Occupied Land Fund at that time is what its name was,  
23 placed ads in this magazine. Correct?

24 A. Correct.

25 Q. All right. And let me show you the Arabic. This is the

1     Arabic version of the advertisement in that paper. Do you see  
2     that?

3     A.    It is one of them. I think that most of these had, you  
4     know, multiple ads, so I can't recall without looking at the  
5     original whether this had one or more than one ad. But it is  
6     one of them.

7     Q.    Okay. But this is one of the ads?

8     A.    Correct.

9     Q.    Okay. And you see that now in the Arabic, to the extent  
10    we can tell anything about it, because you and I don't speak  
11    Arabic, this is writing over here. Correct?

12    A.    Correct.

13    Q.    And I can pull it up and make it a little bigger, but it  
14    won't make much difference because we won't be able to read  
15    it. And this is a picture that appears to be a picture of a  
16    child. Correct?

17    A.    It does.

18    Q.    Of a baby with a bandage on. Correct?

19    A.    Correct.

20    Q.    And then there is writing on the other side. Correct?

21    A.    Correct.

22    Q.    And then there is where to send your money to, et cetera.

23    A.    Correct.

24    Q.    Right here. Okay. Now, when the Government introduced  
25    this document, this is how the translation looks. At the top

1 it says advertisement. Right?

2 A. It does.

3 Q. And then it says, "If you do not help today, then who  
4 will?" Correct?

5 A. I mean, that is not verbatim, but that is the essence of  
6 it, yes.

7 Q. Well, "If you do not help today, then when? And if not  
8 you, then who?"

9 A. Correct.

10 Q. That is verbatim. Right?

11 A. That is verbatim.

12 Q. And then it says "Occupied Palestine." Right?

13 A. It does.

14 Q. And you know that to mean in 1990 the West Bank and Gaza  
15 is what they are referring to. Correct?

16 A. That is what they are referring to, yes.

17 Q. And then it says that donations are tax exempt. Correct?

18 A. It does.

19 Q. Now, then it has a list and it says, "Your donations,  
20 what can they do?" Right?

21 A. Right.

22 Q. If you look at the Arabic.

23 Then it says "picture." Right?

24 A. It does.

25 Q. And that is the picture of the little child. Right?

1 A. Correct.

2 Q. And then it says "poem." Right?

3 A. It does.

4 Q. And the Arabic has something under where it says poem,  
5 doesn't it?

6 A. It does.

7 Q. But when the Government provided this, you didn't include  
8 the poem, did you?

9 A. It is not on there.

10 Q. You didn't include it, did you?

11 A. Well, it wasn't I that didn't include it. The --

12 Q. The Government didn't include it in their exhibit.  
13 Correct?

14 A. The translator noted it as a poem.

15 Q. Right. So the Government exhibit doesn't include that  
16 part of the ad, does it?

17 MR. JONAS: Objection, Your Honor. She has answered  
18 that question.

19 THE COURT: You have asked it about five times,  
20 counsel.

21 MS. HOLLANDER: Well, I am just trying to get it.

22 THE COURT: Counsel.

23 MS. HOLLANDER: Okay.

24 Q. (BY MS. HOLLANDER) Can you see the part -- Can you read  
25 it, or do I need to bring it up to you to read?

1 A. I can read it.

2 Q. Would you read this here where it says, "Your donations,  
3 what can they do can," just read what it says the donations  
4 can do?

5 A. Okay. It says, "Sponsor an orphan, support a widow,  
6 treat a wounded person, support a disabled, support family,  
7 shroud a dead body, equip a clinic, redeem a captive, feed a  
8 hungry person, dress a needy person, plant a tree, build a  
9 house, refurbish a mosque, educate a student, equip a school,  
10 bring a smile, wipe out a tear, light a candle."

11 Q. And you read what it says right here?

12 A. Just in the box or above as well?

13 Q. Well, just in the box.

14 A. It says, "The Occupied Land Fund is an honest arm that  
15 works on collecting and delivering donations" -- Can you scoot  
16 it over just a little bit? "...to occupied Palestine to  
17 support its people's steadfastness. Send your donation today  
18 to OLF, P.O. Box 928, Los Angeles, California," zip code and  
19 the telephone number and fax number.

20 Q. Okay. Thank you. Now, I would like you to also read  
21 what has been marked and previously admitted as Defendants'  
22 Illa Falistine No. 1, which is a translation of the poem.

23 A. Okay.

24 Q. I am going to have to -- Is it easier for you if I bring  
25 it to you to read?



1 A. As long as I can see it all on the screen it is okay, so  
2 if it is short. But if you prefer to bring it to me --

3 Q. Let me bring it to you, because once I make it on there  
4 it is going to be too little to read.

5 A. Okay. Thank you.

6 Q. Would you read that, please?

7 A. Okay. It says, "In the shaded rocky alleys, you hear the  
8 sobbing of perseverance and the sigh of calamity. Martyrs.  
9 In the age of almond's blossom. Wounded. And their blood is  
10 in the color of umber. Captives. Death is more merciful to  
11 them than life. Fetuses meet their graves, even before they  
12 were born. Camps without tents. And the night of suffering  
13 is like lava. Blown up houses and exposed women. Orphans of  
14 pride without parents, and martyrs' wives with no consolation.  
15 A disabled old man and a bereaving woman cry. O Muslim, O  
16 Islam, O Muslim, O Islam, O Muslim, O Islam, O Muslim, O  
17 Islam, O Muslim, O Islam."

18 Q. Thank you.

19 Now, the Government also introduced another one of these  
20 magazines, Illa Falistine No. 2, this one. Do you recall this  
21 one?

22 A. I do.

23 Q. And it, too, had an ad from the Occupied Land Fund.  
24 Correct?

25 A. Correct.

1 Q. And this is the add in Arabic. Correct?

2 A. Correct.

3 Q. I will show the rest of it here in a minute. It goes on  
4 this way. Right?

5 A. Yes.

6 Q. I am just trying to keep it big enough to see. And this  
7 is a picture of a woman and her children, it looks like,  
8 doesn't it?

9 A. It is a lady and some children, yes.

10 Q. And an Israeli soldier.

11 A. I see what looks to be a soldier there, but I can't make  
12 out from this what nationality he is. But it looks like a  
13 soldier.

14 Q. It does look like a soldier at least. That much we can  
15 tell. Right?

16 And you translated -- The Government translated I am  
17 sorry to say you, but the Government translated this one also,  
18 didn't it?

19 A. I believe so.

20 Q. Okay. And this is a translation, isn't it?

21 A. Yes.

22 Q. Okay. Would you read first what it says just under  
23 "picture"?

24 A. Okay. Reading the left hand column first and then the  
25 right hand column --

1 Q. What does it say just under "picture"?

2 A. "A number of facts," and an asterisk.

3 Q. And what is the asterisk?

4 A. It says, "During 20 months from the beginning of the  
5 Intifada."

6 Q. Now, if you can read the left side where it says "65  
7 martyrs."

8 A. It says, "65 martyrs, 20,000 detainees and captives,  
9 thousands of afflicted families, closed schools, 25,000  
10 injured and wounded, 450 bombed houses, 400 cases of abortion,  
11 and acute shortage in food and medical supplies."

12 Q. And where it says abortion, you are aware that in Arabic  
13 the word miscarriage and abortion are the same word?

14 A. I am not aware of that.

15 Q. You don't think that they meant they paid for 400 Muslim  
16 women to get abortions, do you?

17 A. I don't know what the word for abortion is, so I don't  
18 know how it translates.

19 Q. You know that abortions are not permitted for Muslims,  
20 don't you?

21 A. I don't know that.

22 Q. Now, we have talked about these ads, and you introduced  
23 these documents to show some other things, but to also show  
24 the advertisements. Correct?

25 A. Correct.

1 Q. That is part of the reason for introducing those?

2 A. That is correct.

3 Q. And those magazines were put out by the IAP. Correct?

4 A. They were.

5 Q. Okay. But that wasn't the only organization that Holy  
6 Land advertised with, was it?

7 A. No, it was not.

8 Q. I would like to show you what has previously been  
9 admitted --

10 MS. HOLLANDER: I believe it has been admitted,  
11 Defendants' No. 1051 the other day, Your Honor. I believe it  
12 was admitted without objection.

13 THE COURT: Okay.

14 MS. HOLLANDER: If it isn't, I move its admission  
15 now, Your Honor, Exhibit No. 1051. I can show it to Agent  
16 Burns, if I can approach.

17 THE COURT: Yes.

18 Q. (BY MS. HOLLANDER) These are documents that were seized  
19 from the Holy Land office?

20 A. That is correct.

21 Q. And you have looked at them before, haven't you?

22 A. Yes.

23 Q. You are familiar with those?

24 A. Yes. I won't remember details unless I look at it, but I  
25 have seen them before.

1 MS. HOLLANDER: Your Honor, I move for the admission  
2 of Defendants' Exhibit No. 1051, if it is not already in.

3 THE COURT: I don't show it in, but I show you have  
4 no objections to it.

5 MR. JONAS: That is correct.

6 THE COURT: That is admitted.

7 Q. (BY MS. HOLLANDER) Now, this was actually seized from  
8 the HLF office in Dallas. Correct?

9 A. Correct.

10 Q. And it shows, among other things, the Holy Land  
11 Foundation's breakdown of expenses for a period of time.  
12 Correct?

13 A. I believe so.

14 Q. Okay. And it appears to be, does it not, a breakdown of  
15 advertising expenses?

16 A. There were advertising expenses that I saw in there, yes.

17 Q. And this is a document -- Let me look at page 1. This is  
18 a document generated by the Holy Land Foundation. Correct?

19 A. Correct.

20 Q. And it shows a payment to an Al Watan newspaper?

21 A. Yes.

22 Q. For \$450?

23 A. It does.

24 Q. And another page of this document, Defendants' No. 1051,  
25 shows advertisements. Correct?

1 A. Correct.

2 Q. And that whole page is a page of advertisements, isn't  
3 it?

4 A. It is, except for I guess the adjustment entry, whatever  
5 that is.

6 Q. The general journal entry.

7 A. Right.

8 Q. And then it lists the media where they advertise.  
9 Correct?

10 A. Correct.

11 Q. And that includes something called "International Truth."  
12 Correct?

13 A. Correct.

14 Q. And Al Miraad?

15 A. Yes.

16 Q. Arab-American Council?

17 A. That is correct.

18 Q. Al Watan newspaper?

19 A. Yes.

20 Q. Nets International?

21 A. Correct.

22 Q. And then something called Al Jumuah. Correct?

23 A. Correct.

24 Q. I.A.N.T.

25 A. Correct.

1 Q. Student Media at UCLA?

2 A. That is correct.

3 Q. And it has the amounts for each one, doesn't it?

4 A. I believe that is the check number column, but it does  
5 have the amounts there.

6 Q. For that period of time for each one?

7 A. Correct.

8 Q. Right. And it also has the IAP. Correct?

9 A. It does.

10 Q. And then if we continued down, some of these repeat and  
11 then there is some new ones like the Washington Report.

12 Correct?

13 A. Correct.

14 Q. And the next page of that document has additional  
15 advertisements. Correct?

16 A. That is correct.

17 Q. And some additional places like Arab Panorama.

18 A. Correct.

19 Q. And it also has IAP. Correct?

20 A. That is correct.

21 Q. And a very large amount to an organization American-Arab,  
22 and we can't read the rest of it. Correct?

23 A. That is correct.

24 Q. Because they used some kind of a shorthand just for the  
25 document. Right?

1 A. Correct.

2 Q. And in fact, we actually have the underlying documents to  
3 support this ledger. Correct?

4 A. I don't know that we have all of them there. You may.

5 Q. But we have --

6 A. This is one.

7 Q. This is one that supports it. Right?

8 A. Correct.

9 Q. And this is another one. Correct? And it also has some  
10 handwriting on it, but it has one color page, color charge,  
11 \$1300?

12 A. Yes, that is what it says.

13 Q. And this is one to Community Voice an invoice for a full  
14 page ad?

15 A. Correct.

16 Q. Now, each one of these, for example, here is the record  
17 in the ledger for The Minaret. Correct? For \$800. Can you  
18 see that? Do I need to make it bigger?

19 A. I can. I am just confused. You said the record and the  
20 ledger. I think this is one of those portions of a check, I  
21 think.

22 Q. Okay. So it might be the back of a check or the bottom  
23 of a check?

24 A. The bottom of it. That is what it looks like.

25 Q. But it coincides with this bill that was paid to The



1 Minaret for \$800?

2 A. Correct.

3 Q. I will put these together here. Here we have essentially  
4 the same thing for Community Voice. Correct? We have the  
5 \$600 and then we have the invoice for \$600. Correct?

6 A. That is correct.

7 Q. And if you look through these, essentially that is what  
8 all of them are, aren't they? For example, I will show you  
9 two more. Here is another one for Community Voice and the  
10 invoice. Correct?

11 A. Correct.

12 Q. So these are all documents showing some ads for just one  
13 period of time at the Holy Land Foundation at about the same  
14 time as the Illa Falistine ad. Correct?

15 A. The Illa Falistine ad was in the late '80s early '90s,  
16 and those all appear to be 1997, '98, '99, 2000.

17 Q. So these were all for a much later time?

18 A. They were.

19 Q. The Illa Falistine were all before Hamas was designated.  
20 Correct?

21 A. That is correct.

22 MS. HOLLANDER: Your Honor, I am moving to another  
23 area. Do you want me to --

24 THE COURT: Go ahead and keep going.

25 MS. HOLLANDER: You want me to keep going?

1 THE COURT: Yes.

2 Q. (BY MS. HOLLANDER) I want to talk to you about two  
3 documents you discussed about a visit to Palestine that Shukri  
4 took in 1991.

5 A. Okay.

6 Q. Okay? And you introduced -- The Government introduced  
7 through you and you identified two documents that you claimed  
8 reported on a meeting he attended in Gaza in 1991. Correct?

9 A. There was one from InfoCom that actually related to a  
10 trip that Shukri Abu Baker took, and then there was another  
11 document I believe from Abdel Haleem Ashqar's home that  
12 referenced his trip.

13 Q. Okay. And that was your testimony, and that is exactly  
14 what I want to talk to you about.

15 A. Okay.

16 Q. So we are on the same page here?

17 A. Okay.

18 Q. So this is 1991, still four years before Hamas was  
19 designated. Correct?

20 A. Correct.

21 Q. Now, the only one -- Those two documents--and we will  
22 talk about both of them and remind the jury of which ones we  
23 are talking about--the only one in which the author is  
24 identified is the document that the Government has identified  
25 as InfoCom Search No. 51. Correct? That one actually -- That

1 is this document. Correct?

2 A. That is correct.

3 Q. Okay. And to make our life easier, we will look at it in  
4 the English.

5 A. That would be helpful.

6 Q. For all of us. All right. So just to reference, this is  
7 the document that I just showed you in Arabic, which is  
8 InfoCom Search No. 51. Correct?

9 A. Correct.

10 Q. And in the original it wasn't signed by hand, but it says  
11 Shukri Abu Baker, executive director. Correct?

12 A. I can't remember if it was signed by hand or not, but his  
13 name was on there.

14 Q. His name was on there. Now, the other document is this  
15 one. That is Ashqar Search No. 2. Correct?

16 A. Correct.

17 Q. And that one, just to reference, that was -- The original  
18 is Arabic on a note pad. Correct?

19 A. Correct.

20 Q. Is that handwritten?

21 A. It appears to be.

22 Q. So we will look at the English of that, too. So that is  
23 the first page of the English. Correct?

24 A. Correct.

25 Q. Okay. Now, that one -- The report that has Shukri's name

1 on it that you found at InfoCom, it actually says it is a  
2 report about the trip to the occupied territories. Correct?

3 A. It does.

4 Q. Okay. So once again, we know that that is referring to  
5 Gaza and the West Bank, because that is the area that Israel  
6 occupied in 1991. Correct?

7 A. Based on the content of the document, I know they are  
8 talking about West Bank and Gaza.

9 Q. Right. And that is the area they refer to as the  
10 occupied territories. Right?

11 A. Correct.

12 Q. All right. And it has the date July 16th to August 31st.  
13 Right?

14 A. August 3rd, I believe.

15 Q. I am sorry. August 3rd. Right. And the other  
16 one -- Now, the one that you refer to as Ashqar Search No. 2,  
17 that is one of the ones that the FBI photographed at Mr.  
18 Ashqar's home. Correct?

19 A. Correct.

20 Q. And that is why it has this on it, because it is actually  
21 was photographed. Right?

22 A. That is correct.

23 Q. And that one says -- That one doesn't have a signature by  
24 anyone, does it?

25 A. It is not signed.

1 Q. It is not signed.

2 A. That is correct.

3 Q. So we don't know who wrote this one, do we?

4 A. We know it was someone from within the Palestine  
5 Committee.

6 Q. You don't know what individual wrote this, do you?

7 A. Correct.

8 Q. And it says a subject about the visit to occupied  
9 Palestine. Correct?

10 A. That is correct.

11 Q. And what are the dates it has?

12 A. May 17th through June 4th, 1991.

13 Q. Now, you pointed to a particular part of it, and I want  
14 to direct you to that again. You pointed to this part in  
15 particular. We are talking about the one that was  
16 photographed at Mr. Ashqar's house. Right?

17 A. Correct.

18 Q. And you pointed to this part "three investment projects  
19 presented by Dr. Al-Zahar." Correct?

20 A. Actually Mr. Jonas -- We were talking about the Center  
21 for Studies and Research, entry K.

22 Q. This part here?

23 A. That is correct.

24 Q. Okay. To open a Center for Studies and Research, and he  
25 approved that. Okay.

1           And then I am going to want you to spend a little time on  
2           this other document that has Shukri's name on it, so we will  
3           assume that Shukri authored it.

4           A.     Okay.

5           Q.     But I want to focus to what Shukri wrote about -- that  
6           you pointed out.   Okay?   So would you read, please, this  
7           paragraph right here?

8           A.     "I visited Gaza accompanied by Dr. Suliman where we met  
9           with Mr. Abu Khalid, Abu Nasir, as well as another group of  
10          officials and those concerned with charitable work.   We  
11          discussed with Mr. Abu Khalid the issue of building a research  
12          organization and means of supporting the university.   We  
13          suggested to him to establish a central zakat committee for  
14          the Gaza Sector."

15          Q.     I am going to want you to read more, but let's focus on  
16          this for a while.   So the Ashqar -- the document found in  
17          Ashqar, and that was dated -- It says that the report involves  
18          a visit to Palestine from May 17th to June 4th.   Correct?

19          A.     That is correct.

20          Q.     1999.   And that is this one that is on the screen now.  
21          Right?

22          A.     That is correct.

23          Q.     It talks about Dr. Al-Zahar.   And the one that Shukri  
24          wrote, which you just read, that talks about a visit between  
25          July 16th and August 3rd, 1991.   Correct?

1 A. That is correct.

2 Q. Okay. So this one, the one that Shukri wrote, basically  
3 begins after the Ashqar one ends, if you go by the dates.  
4 Right?

5 A. If you go by the dates, correct.

6 Q. Now, in the one that Shukri wrote, he says he met with  
7 Mr. Abu Khalid. Right?

8 A. That is correct.

9 Q. And you testified that Abu Khalid is the Abu name for  
10 Dr. Al-Zahar, didn't you?

11 A. I did.

12 Q. But Abu is sometimes connected to a last name, too, isn't  
13 it? For example, what is Shukri's last name?

14 A. Abu Baker.

15 Q. Right. So that is -- His last name is Abu Baker.  
16 Correct?

17 A. That is correct.

18 Q. Okay. And for example, just to keep to people in  
19 this -- that we have talked about, Mousa Abu Marzook, Abu  
20 Marzook is his last name, isn't it?

21 A. That is correct.

22 Q. He has a different Abu name, doesn't he?

23 A. Abu Omar.

24 Q. Abu Omar is his name. So if you were referring to him  
25 you would refer to him, you would refer to Shukri, if you were

1 referring to him in his last name, as Mr. Abu Baker, wouldn't  
2 you?

3 A. Correct.

4 Q. And Marzook is sometimes Mr. Abu Marzook. Correct?

5 A. Correct.

6 Q. And if you refer to someone as their Abu name, you say  
7 Abu Omar. Right?

8 A. I have seen people say Mr. Abu Omar and Abu Omar. It can  
9 be either way.

10 Q. But he very clearly says Mr. Abu Khalid here.

11 A. He does.

12 Q. And he says Abu Nasir?

13 A. He does.

14 Q. And he says Mr. Abu Khalid again?

15 A. He does.

16 Q. And you know that Abu Khalid is one of those names that  
17 is sometimes a last name also, don't you?

18 A. I have not seen it that way, and in this context the Abu  
19 Khalid I know is Mahmoud Al-Zahar.

20 Q. So that is what you assumed it to mean, didn't you?

21 A. Based on the documentation, that is who it is.

22 Q. Did you do any research to see whether Abu Khalid is also  
23 a last name used by Palestinians?

24 A. It could be. I don't know if it is or not.

25 Q. But you didn't research that, did you?



1 A. I did not look to see if it was a common last name, no.

2 Q. And nowhere in Shukri's report does he say that he  
3 referred to Abu Khalid, does he? He always says Mr. Abu  
4 Khalid in this report, doesn't he?

5 A. I don't know if he does not.

6 Q. He referred to him twice on that page as Mr. Abu Khalid,  
7 didn't he?

8 A. That is correct.

9 Q. Now, I want to ask you about the differences in the  
10 dates. Okay?

11 A. Okay.

12 Q. And you said that Shukri's report on his visit is dated a  
13 month later.

14 A. That is correct.

15 Q. In fact, you have, and you have seen in this case, and  
16 you have documentation that is consistent with Shukri actually  
17 being in Palestine the dates identified on his report, don't  
18 you?

19 A. That is correct.

20 Q. Okay. You have documents that show the dates he came in  
21 and out of the country.

22 A. That is correct.

23 Q. And you have documents that show that he was in London  
24 during -- previous to that. Correct?

25 A. We have seen records relating to his trip to London, yes.

1 Q. Let's look at some of those.

2 MS. HOLLANDER: Your Honor, I believe that  
3 Defendants' Exhibit No. 1333 has been previously admitted.

4 THE COURT: No. 1333?

5 MS. HOLLANDER: Yes.

6 THE COURT: Okay. Yes.

7 Q. (BY MS. HOLLANDER) Agent Burns, you are familiar with  
8 this document, aren't you?

9 A. Yes, I am.

10 Q. Okay. And that is a document that the Government  
11 obtained from the Treasury Department. Correct?

12 A. Correct.

13 Q. And it is a document that actually shows when people come  
14 into the country. Isn't that right?

15 A. It is.

16 Q. Now, first it would identify who the person is that you  
17 are looking for. Right?

18 A. That is correct.

19 Q. Okay. And these are sometimes very long documents, but  
20 the only part I have here is the part that deals with Shukri.

21 A. Okay.

22 Q. Okay? And this -- I have a version that is highlighted  
23 here just to make it easier for us. This is a page from that  
24 document. Okay?

25 A. Okay.

1 Q. Does that look like a page for you?

2 A. Yes, it does.

3 Q. Okay. Because you have seen this before?

4 A. Yes.

5 Q. It is one of the documents that you gathered up in this  
6 case. Right?

7 A. That is correct.

8 Q. Now, it shows two times of the relevant period that  
9 Shukri came into the United States. Correct?

10 A. That is correct.

11 Q. Okay. He came into the United States on 6/3/91. Right?

12 A. Correct.

13 Q. Okay. So that is June 3rd. Right?

14 A. Correct.

15 Q. And he came in from -- And you also have documents that  
16 show that you subpoenaed or sent a national security letter to  
17 get Shukri's personal bank account. Correct? From Bank One?

18 A. We have Bank One records, yes.

19 Q. Okay.

20 MS. HOLLANDER: Your Honor, I believe it is  
21 previously been admitted, Defendants' No. 1017, the Bank One  
22 records.

23 THE COURT: Okay.

24 MS. HOLLANDER: If not, I move it at this time. I  
25 don't believe there is any objection.

1 Q. (BY MS. HOLLANDER) Now, this was a record, the Bank One  
2 record?

3 THE COURT: For the record, that is admitted.

4 MS. HOLLANDER: Thank you, Your Honor.

5 Q. (BY MS. HOLLANDER) You have seen this record before.

6 A. Yes, I have.

7 Q. Do you need to look at it? Okay. That is actually  
8 Shukri Abu Baker's personal account. Correct?

9 A. I believe it was. I would need to look at the top to  
10 confirm, but I believe it was.

11 MS. HOLLANDER: May I approach, Your Honor?

12 THE COURT: Yes.

13 Let's go ahead and break here for lunch. Be back at  
14 2:00.

15 (Whereupon, the jury left the courtroom.)

16 THE COURT: All right. We will be in recess until  
17 2:00.

18 (Lunch recess.)

19 THE COURT: Mr. Jacks, I received the email that you  
20 sent over the lunch hour.

21 MR. JACKS: Yes, Your Honor.

22 THE COURT: Did counsel receive that? Was this your  
23 document, Ms. Duncan?

24 MS. DUNCAN: Yes, Your Honor.

25 THE COURT: Okay. And you see where the Government

1 is objecting?

2 MS. DUNCAN: Yes, Your Honor.

3 THE COURT: And do you have any thoughts or response  
4 to that?

5 MS. DUNCAN: I do, Your Honor.

6 First of all, this section that the Government wants to  
7 redact from is a discussion of the need to address American,  
8 Palestinian, and Muslim communities or audiences a little bit  
9 differently depending on their own experiences and  
10 perspectives, and what the speaker is saying, once again,  
11 gives context to other parts of speech.

12 As we have heard through the testimony, the Philadelphia  
13 meeting, you know, there are chapters but people kind of go  
14 back and forth between certain topics, and this is one of  
15 those places where they are going back to that issue of a  
16 different address.

17 It is troubling this idea that we are now going to go  
18 through these transcripts and cut out this little sentence  
19 that the Government doesn't like, or this little sentence that  
20 the Government doesn't like. I mean, it is important for the  
21 jury to understand what these people said, and when the  
22 Government starts pulling out a sentence here and a sentence  
23 there, it changes the whole meaning of the speech in this  
24 case.

25 And with respect to the Government's argument that this

1 shouldn't be allowed in because they can't cross examine this  
2 speaker, this speaker speaks throughout this entire  
3 transcript, throughout the 18 transcripts that they are  
4 introducing, and, I mean, no one can cross examine. That is  
5 one of the problems with their reliance on so many documents  
6 that really include speech by no one who is in this courtroom.

7 But they can't introduce these speakers and then just  
8 take little parts out that then change, dramatically change  
9 the meaning of the person's words.

10 You know, and we sent this transcript to them I think it  
11 was Saturday, so they have had time to read it. This is no  
12 great surprise to them, and so I don't understand why we are  
13 having this last minute objection after we have already gone  
14 through this this morning, Your Honor.

15 THE COURT: Mr. Jacks?

16 MR. JACKS: Judge, to get to the rules of evidence,  
17 this comment does not contribute to the 106 reasoning that the  
18 Defendants have put forward to include this particular  
19 transcript in the Philly transcripts. And the Government has  
20 the right to put in those transcripts that it chooses to do  
21 so, and to follow the rules of evidence with regard to what is  
22 admissible, and either as an admission of a party opponent or  
23 as a co-conspirator statement.

24 The Defense has the opportunity or the ability to call  
25 witnesses, if they choose to do so, to tell a different

1 version of what was said or to sponsor in other statements, if  
2 those are shown to be admissible.

3 These two particular statements, it is the Government's  
4 contention, do not so much contribute to the discussion about  
5 what face to show to the American public versus the Arab or  
6 Middle Eastern public. These are the statements of one of the  
7 speakers that appears to -- I don't know if it is to go off  
8 topic or to simply start speaking his opinion about his views.

9 And as I said, they are, from the outset, hearsay to the  
10 Defendants, and we would object. And again, we believe that  
11 these particular statements are unduly prejudicial and should  
12 be excluded.

13 THE COURT: Okay. Ms. Duncan, anything else,  
14 briefly?

15 MS. DUNCAN: Your Honor, Rule 106 is a rule of  
16 evidence, and it is statements that ought in fairness to be  
17 considered with other statements. These statements ought to  
18 fairness to be considered with the other statements in the  
19 Philadelphia meeting.

20 It not only goes to this discussion of different  
21 addresses to audiences who have different experiences. It  
22 also goes to the issue of why some of these speakers in this  
23 offense were opposing Oslo, the reasons for that.

24 The Government would like the jury to believe that  
25 everyone who opposes Oslo is a terrorist and you only oppose

1 Oslo because you are a member of Hamas. This discussion is a  
2 discussion of explaining positions to Oslo, and these  
3 statements give context.

4 And once again, when you take those statements out you  
5 change the meaning, and that is what Rule 106 is intended to  
6 prevent, is to require that when the Government or a party  
7 puts in a statement or a writing, that the jury is then given  
8 a complete picture of what was said so that they can make  
9 their own independent determination of that meaning.

10 THE COURT: Okay. I am going to sustain the  
11 Government's objections. I don't think it changes the meaning  
12 in terms of the discussion, the overall discussion. A lot of  
13 the conversation is still in about this organization and what  
14 face to present to the American people and through the use of  
15 the media. I think this is adding additional information on  
16 the politics in the region. Now you are getting into Lebanon.  
17 That is not relevant to this case and the issues involved in  
18 this case and the issues that the jury has to resolve, so I  
19 sustain those objections.

20 Were you planning on reading that?

21 MS. HOLLANDER: We weren't planning to read that  
22 section, Your Honor. When we submit the exhibit finally, we  
23 will redact those.

24 THE COURT: Okay.

25 MR. JACKS: Judge, I didn't know what the Defense or



1 the Court was going to do, but I have prepared a page that has  
2 it redacted.

3 MS. HOLLANDER: If you want to give me that, I will  
4 put it in the exhibit.

5 THE COURT: All right. Ready for the jury?

6 MS. DUNCAN: I wanted to bring one other issue to  
7 the Court's attention.

8 THE COURT: Yes.

9 MS. DUNCAN: When we broke for -- Can I approach,  
10 Your Honor?

11 THE COURT: Sure. Come on up.

12 (The following was had outside the hearing of the  
13 jury.)

14 MS. DUNCAN: When we broke for lunch today and were  
15 going to the elevators, the jury was getting ready to go down  
16 for the lunch break and the woman who was in here the other  
17 day with the "hate speech is not free speech" was standing at  
18 the elevators talking to a gentleman next to the jurors. I  
19 couldn't hear what she said, but I think it raises the issue  
20 of the spectators being near the jury and the conversations  
21 and the concerns we have about outside influence on the jury.

22 So on behalf of the Defense, I ask the jury be escorted  
23 to the elevators and no one be allowed into that little foyer,  
24 and then at that point everybody else can leave, to prevent  
25 that from happening.

1           MR. JACKS: Judge I was there, too, because I don't  
2 know if the jury had already left. So I am standing there in  
3 that foyer, and here comes the Marshal with the jury. I saw  
4 the woman talking to that man, and they were talking about  
5 something totally different.

6           And so -- I mean, I don't have any problem with that, but  
7 I don't know where I would have gone if the participants are  
8 not supposed to be there when the jury is coming through. I  
9 would have had to get buzzed through to the other side.

10          THE COURT: All we can do is keep an eye on this. I  
11 don't want to make it that strict. Obviously the jury is out  
12 there. They know they are not supposed to be talking to  
13 anybody. If they hear something, hopefully they will report  
14 it if they hear something that is inappropriate.

15          They are going to run into people. As long as they are  
16 not hearing something that is inappropriate, then that is not  
17 a problem. So we can keep an eye on it, and if you hear  
18 something that is improper, bring it to my attention.

19          And I will talk to the CSO and see if they are noticing  
20 that there is a pattern of people hanging out, especially  
21 certain people. And if it appears to be that, we will  
22 certainly, then, do that. But I am not going to do something  
23 just because somebody happened to be there.

24          MS. CADEDDU: I was going to say last week we had  
25 talked about calling up and inquiring of that woman whether

1 she had had contact with any member of the jury, because she  
2 had been going up to people and showing them the publication  
3 with my client's photograph in it that said " Hamas' rock  
4 star." So that is something I want to raise, and I don't know  
5 if the Court wants to do that.

6 THE COURT: No, not really, because I haven't heard  
7 anything. I talked to the CSOs and they didn't hear anything  
8 inappropriate. I don't know if it was the same situation you  
9 saw, so I don't just want to start asking people.

10 MS. CADEDDU: The concern is she went up unsolicited  
11 in the hallway --

12 THE COURT: I understand. But unless we have  
13 something more specific, I don't want to start interrogating  
14 people. They have heard me say what I have said, and the  
15 juror has heard, and so unless we get something more concrete  
16 than somebody just happened to be there when the jury is  
17 there, that can't be avoided unless we just completely take a  
18 different approach.

19 MS. DUNCAN: I guess -- I didn't hear anything they  
20 said, and I am not saying there was anything --

21 THE COURT: And Mr. Jacks said he didn't hear  
22 anything inappropriate.

23 MS. DUNCAN: It is a concern that we always see the  
24 same people that are hanging out where the jury is.

25 THE COURT: You may not be noticing some of the

1 other people, but it is the same folks that happen to be here.  
2 I am getting concerns coming from the other side.

3 The jury knows, and these people have heard me state what  
4 I have stated, so hopefully they all know to avoid that. If  
5 you hear something specific, let me know.

6 (The following was had in the presence and hearing  
7 of the jury.)

8 THE COURT: All right. Bring in the jury.

9 (Whereupon, the jury entered the courtroom.)

10 THE COURT: Ms. Hollander?

11 MS. HOLLANDER: Thank you, Your Honor.

12 Q. (BY MS. HOLLANDER) Good afternoon, Agent Burns.

13 A. Good afternoon.

14 Q. Now, we were talking about, just to remind you, this trip  
15 that Shukri took to the occupied territories in 1991.

16 A. Correct.

17 Q. Okay. The document that has his -- that he authored says  
18 that he took that trip from July 16th to August 3rd of 1999.  
19 Correct?

20 A. Correct.

21 Q. And the document that you photographed at Mr. Ashqar's  
22 house has a trip from June 10th to May 17th of 1991. Correct?

23 A. I think it will be reversed.

24 Q. I am sorry. May 7th to June 10th. Right?

25 A. Right.

1 Q. And I think that when we went to lunch, you had  
2 identified Shukri's bank account, Defendants' No. 1017, a  
3 purchase on 6/01 in Great Britain. Correct?

4 A. Correct.

5 Q. And you also have -- And Fenwick's Limited is a  
6 department store in England. Right?

7 A. I don't know about that.

8 Q. Well, we know it is in England. Right?

9 A. That is correct.

10 Q. Something Shukri paid for with his credit card?

11 A. That is correct.

12 Q. All right. Now, you also have documents from American  
13 Express. Correct?

14 A. Correct.

15 Q. Okay.

16 MS. HOLLANDER: Your Honor, I believe we previously  
17 admitted Defendants' No. 1018.

18 THE COURT: Yes. No. 1018 is in.

19 Q. (BY MS. HOLLANDER) And this is part of the American  
20 Express records I am going to show you here in a minute so you  
21 can identify it, Shukri's American Express records.

22 A. Yes.

23 Q. Okay. From the Occupied Land Fund. Right?

24 A. That is correct.

25 Q. And that shows a purchase or a stay at the Ramada London

1 West. Correct? Do you see that?

2 A. Yes. That is correct.

3 Q. And it says 26/5/91. Since it is Europe, they reverse  
4 the numbers.

5 A. Correct. That would be May 26th.

6 Q. And that is also in London. Right?

7 A. Correct.

8 Q. So to cut this a little bit short, it is safe to say that  
9 on May 26th, 1991 and June 1st, 1991, Shukri was in London,  
10 according to your records. Correct?

11 A. That is correct.

12 Q. And that is right in the middle of the time that the  
13 Ashqar document describes of May 17th to June 10th, 1991.  
14 Correct?

15 A. Correct.

16 Q. And you also have records--I don't think I need to go  
17 through them but let me ask you--that Shukri was out of the  
18 country from July 16th, and certainly came back on August 5th.  
19 Correct?

20 A. I can't recall if we have indications of what day he  
21 actually left. We may have some plane records. But I know we  
22 just looked at the incoming records showing that he did come  
23 back into the country.

24 Q. He came back on the 5th of August. Correct?

25 A. That is correct.

1 Q. And I think there is one more document, part of  
2 Defendants' No. 1017 from his personal account, that he was at  
3 the Seven Arches Hotel in east Jerusalem? Correct? On 8/03  
4 is the transaction date?

5 A. Yes.

6 Q. Can you see that?

7 A. I do.

8 Q. Right. And that is consistent with the time on that  
9 report, too, isn't it?

10 A. It is.

11 Q. Okay. Now, if your voice is okay today, I would like you  
12 to read for the jury the report that Shukri wrote. And if you  
13 are okay putting it on here, or I can hand it to you, but I  
14 can put it on here and we can read it page by page.

15 THE COURT: What is the exhibit number, counsel?

16 MS. HOLLANDER: That is a very good question, Your  
17 Honor, because the exhibit is on the front page of the Arabic,  
18 and I will tell you in just a second here. Well, I don't  
19 know. It is the one we have just been talking about, but let  
20 me get the exhibit number. I am sorry. I thought I was doing  
21 well to get rid of the Arabic and now I have lost it.

22 It is InfoCom No. 51.

23 THE COURT: Okay.

24 Q. (BY MS. HOLLANDER) And if I put it on here, the jury can  
25 read along with you. And just let me know if I need to make

1 it bigger or smaller. Okay?

2 A. Okay.

3 Q. A little smaller?

4 A. The right side is cut off. That looks good right there.  
5 Begin reading?

6 Q. Go ahead.

7 A. "Thanks be to God and peace be upon God's prophet. To  
8 proceed:

9 "Goals of the visit:

10 "It was decided that the executive director will visit  
11 the occupied territories in order to achieve the following  
12 goals:

13 "1: Getting acquainted with the charitable organizations  
14 and societies operating on the ground.

15 "2: Following up the Fund's projects and work with the  
16 organizations of the inside.

17 "3: Removing administrative and technical obstacles  
18 facing the bilateral relationship between the Fund and the  
19 organizations of the inside.

20 "4: Studying the possibility of opening an office for  
21 the Fund in Jerusalem.

22 "Achievements relating to the first and second goal:  
23 The Jerusalem area:

24 "I met Shaykh Muhammed Jum'a from the Jerusalem zakat  
25 committee and got acquainted with the committee's activities.



1 The committee's headquarters was not visited after receiving  
2 an advice due to the suspicions circulating relating around  
3 the Shaykh.

4 "I also met with brother Amin Shweiki, the financial  
5 controller of the Jerusalem central zakat and with Shaykh  
6 'Abd-al-Azim Salhab. I met with Mr. Baha'-al-Din Shanablah,  
7 director of the office of the Charitable Means Society in  
8 Jordan. I accompanied him in some tours and we discussed the  
9 possibility of mutual cooperation in supporting the projects  
10 for the inside, exchange of technical expertise, and field  
11 information. I asked him to prepare a vision about joint work  
12 fields and the five-year plan of their organization."

13 Q. Can you see the beginning?

14 A. In the Bir Nibalah area I visited the headquarters of the  
15 committee of the Islamic Sciences and Culture Society, and I  
16 discussed the pending problems between the two sides during a  
17 business meeting. I then visited the site of al-Iman School  
18 for Girls, which the Fund was the number one contributor to  
19 its building, and I discussed the issue of the orphans and the  
20 needy families as well as other joint work fields.

21 "It was agreed that the Society will provide the Fund  
22 with all the media coverage related to the joint activities,  
23 and to provide the Fund with the necessary field studies  
24 relating to the charitable work organizations in Palestine,  
25 orphan sponsorship organizations and programs, and others.

1           "I also visited the Arab Orphan Society, which is  
2 supervised by engineer Abu Suliman, and I got acquainted with  
3 its pioneering work in the field of orphan rehabilitation.

4           "I met Mr. Ahmad Bayyud al-Tamimi, director of the  
5 Islamic Orphan Industrial House in Jerusalem, and also met  
6 with Sheikh Ibrahim Abu Salim, chairman of Bir Nibalah zakat  
7 committee and I listened to their aspirations and projects

8           "Bethlehem.

9           "During my visit to the Bethlehem area, I was able to  
10 meet with brothers overseeing the Bethlehem zakat committee,  
11 and we took a look at al-Akh'a School, which was supported by  
12 the Fund, and we found out its latest developments. I visited  
13 work sites in al-Ta'marah region where the 'Umar  
14 Bin-al-Khattab mosque is being expanded and a group of good  
15 youth is overseeing that.

16           "I met representatives from the Beit Fajar zakat  
17 committee, on top of whom was Dr. 'Issa I got acquainted with  
18 their activities and projects.

19           "I met with Beit Sahur zakat committee delegation, and I  
20 got acquainted with their activities and projects. I made an  
21 exploratory visit to al-Duhayshah Camp and met with a number  
22 of its residents and visited its mosque. During the visit, I  
23 met with the camp's zakat committee, which is budding one  
24 showing signs of good things as it oversees the mosque, the  
25 children nursery, and distributes aid to needy families.

1 Means for cooperation with the fund were discussed with 'Umar  
2 Muhammad al-Afandi and the rest of the committee members."

3 Q. It says Mr. 'Umar Muhammad al-Afandi. Correct?

4 A. Correct.

5 Q. "Hebron area.

6 "In the Hebron area I visited the Islamic Charitable  
7 Society and met those in charge in it, including Mr.  
8 'Abd-al-Khaliq Al-Natashah and Kamal al-Tamimi, and we  
9 discussed the issues of orphan sponsorships and the needy  
10 families. I made a tour to the knitting factory, the orphans  
11 house, the school and the nursery. I had excellent  
12 impressions about work and those overseeing it, and I took a  
13 photo album about their organization in addition to some other  
14 informational materials. In another tour we visited the  
15 headquarters of the Hebron zakat and alms committee, and I got  
16 acquainted with those in charge over there. I reviewed their  
17 orphans files and we discussed means for mutual cooperation.  
18 I took informational material from the committee.

19 "As for the Young Men Muslim Association in Hebron, Mr.  
20 Tadal Sidr accompanied me there and he acquainted me with  
21 their educational activities and their efforts in the field of  
22 children's nurseries as well as other educational activities.  
23 I visited the Association's headquarters, which is still under  
24 preparation, and I got acquainted with the Association's needs  
25 of offices, employees, and others. I took informational files

1 and a photo album covering all of the Association's  
2 activities."

3 "Gaza.

4 "I visited Gaza accompanied by Dr. Suliman where we met  
5 with Mr. Abu Khalid, Abu Nasir, as well as another group of  
6 officials and those concerned with charitable work. We  
7 discussed with Mr. Abu Khalid the issue of building a research  
8 organization and means of supporting the university. We  
9 suggested to him to establish a central zakat committee for  
10 the Gaza Sector. I visited the headquarters of al-Wafa'  
11 Society for Senior Care, and I did not finish my trip to Khan  
12 Yunis due to the brothers' remarks around the Khan Yunis zakat  
13 committee.

14 "In another tour I visited the Palestine mosque to which  
15 the Fund had approved an assistance in the past. It is a  
16 towering fortress which deserves all aid and support.

17 "Um al-Fahm.

18 "During two consecutive visits to Um al-Fahm, it was  
19 agreed with the Relief Committee and the Islamic League on all  
20 unresolved issues between the two sides and on the ideal means  
21 for cooperation. I visited the Committee's headquarters and  
22 met with Shaykh Munir who works there. I also visited the  
23 headquarters of the health clinic, the youth club, and the  
24 municipality. I also visited Shaykh Kamal in Kafr Kana in  
25 order to get familiar with their projects over there.

1           "Ramallah.

2           "Due to the deterioration of the situation in Ramallah,  
3 and the curfew which was imposed for a while, I was not able  
4 to meet the zakat committee in it, except for a passing  
5 meeting with one of its officials, in addition to a visit  
6 which I made to their health clinic over there.

7           "In the town of 'Atarah, Ramallah vicinity, I meet with  
8 the village council which highlighted for me its project to  
9 build an is islamic center for the town containing a prior  
10 niche, a clinic, and a youth hall. In the town of Silwad, I  
11 was acquainted with the project for Silwad Club, which is  
12 overseen by a group of observant youth in coordination with  
13 the Ramallah zakat committee.

14          "Jenin.

15          "I visited the hospital in Jenin and its departments  
16 which are operational. I also visited with the headquarters  
17 of the Orphans Rehabilitation School, which is still under  
18 construction. I made a tour in Qabatiyyah in Jenin's nearby  
19 villages and I met brother Fawaz Hammad, the Fund's  
20 representative for the north region.

21          "Nablus.

22          "During two hours of Nablus, I met with the building  
23 committee of 'Abd-al-Rahman Bin-'Awf mosque which received an  
24 assistance from the Fund, and I discovered with brothers Tariq  
25 Sakf al-Hayt, Abu Hamzah, and Abu 'Umar fields of future

1 cooperation. It [sic] was also acquainted with the personal  
2 projects in the field of yarn and textile. I also researched  
3 with the brothers in charge in the area means of support in  
4 the fields of education, development, and health."

5 "Due to the brothers' aspiration in the area and the  
6 intensity of the countercompetition, their situation deserves  
7 extreme attention. I asked him to hand over all of the  
8 important projects and to organize them according to their  
9 priority.

10 "I also met with the Nablus zakat committee on top of  
11 whom was Dr. 'Abd-al-Rahim Hanbali, who handed me a group of  
12 projects."

13 "Tulkarem.

14 "I met the Tulkarem zakat committee and visited the sight  
15 of a medical hospital which is still in a construction phase.  
16 I also visited headquarters of the Islamic Association for  
17 Food Supplies, and I listened to the brothers' vision  
18 regarding the possibility of utilizing the country's  
19 agricultural and animal resources for the purpose of building  
20 an economic fortress and securing food for the West Bank  
21 region.

22 "Jericho.

23 "I met with Shaykh Harb who explained the region's  
24 worries and needs for support. I asked him to submit his  
25 projects under the banner of the charitable organizations in

1 the region, including the Jericho zakat committee which  
2 suffers from crisis.

3 "Accomplishments of the third goal. Removing obstacles  
4 facing bilateral relations.

5 "Thanks be to God, an expanded (official) meeting at the  
6 highest level was held in order to discuss all issues relating  
7 to charitable work in Palestine. The meeting was attended by  
8 officials from Upper Galilee, Jerusalem, Ramallah, Tulkarem,  
9 Hebron, and elsewhere.

10 "My demands were summarized in the following:

11 "It is necessary that the brothers inside submit a  
12 unified strategy for charity work and priorities for every  
13 stage in order to assist the Fund in taking the appropriate  
14 funding decisions which help the authenticated organizations  
15 in reaching its goals.

16 "It is necessary to adhere to the Fund's requirements  
17 regarding projects and submitting projects according to the  
18 scientific and objective conditions.

19 "It is necessary to develop charity work inside to mount  
20 to the competitors' level. I expressed the readiness of the  
21 Fund to provide any possible assistance to the field of  
22 exchange of expertise, information, and training.

23 "It is necessary to have brothers who are dedicated  
24 solely to the field of charity work.

25 "These demands were met well and with understanding. As

1 a result for continuous dialogue, the problem of the  
2 representatives of the fund was resolved and it was agreed on  
3 the following:

4 "Brother Ala'a Akil, a graduate from America, a  
5 businessman, and a candidate to obtain a U.S. citizenship will  
6 represent the Fund in the mid region.

7 "Brother Amin al-Shweiki, a businessman and a member of  
8 the Jerusalem zakat committee will represent the Fund in the  
9 south region.

10 "Brother Fawaz will continue in his position after all  
11 problems regarding his work method were resolved.

12 "The medical committee.

13 "I was unable to find a medical representative with the  
14 needed requirements, yet it is worth mentioning that a  
15 domestic medical committee was formed, and it was agreed that  
16 the medical projects will go through it chairman Dr.  
17 'Abd-al-Karim Abu Samaha, who had no objection to becoming our  
18 medical consultant publicly.

19 "Gaza status.

20 "Due to the lack of charitable organizations in Gaza to  
21 cover the humanitarian needs of its residents, and in order to  
22 avoid the legal entanglement in dealing with this situation,  
23 it was agreed with the Islamic Relief Committee in Um al-Fahm  
24 to play the role of the intermediary or the agent in carrying  
25 out the Fund's projects over there and follow up its work



1     until an office for the Fund is established in Jerusalem. All  
2     parties agreed to this proposal.

3     Q.    Two short pages here.

4     A.    "Accomplishments of the fourth goal. Opening an office  
5     in Jerusalem.

6            "I discussed with attorney Bahij Jalal al-Tamimi and  
7     brother Fawaz Hammad and some other brothers of the  
8     possibility of opening an office for the Fund in Jerusalem.  
9     The idea was met with a lot of welcome, particularly in light  
10    of changing the legal name of the Fund. From the legal  
11    aspect, there are not obstacles worth mentioning in front of  
12    the project. Brother Fawaz made contacts with officials at  
13    the U.S. Embassy and the Ministry of Affairs, and it was found  
14    that what is required does not exceed some routine issues. As  
15    for the office space, they were available for an annual lease  
16    that does not exceed \$2,500, and employees can be hired for no  
17    more than \$1,800 monthly. What is needed is to take a final  
18    decision regarding the feasibility of the project before  
19    taking the implementing steps."

20    Q.    And the conclusion?

21    A.    "There is a reasonable inclination among charity work  
22    organizations inside to expand work fields. However, it is  
23    obvious that these aspirations lack any futuristic strategic  
24    vision, something which created a lot of competition, a race  
25    for the funding resources, and imitation of many consumer

1 projects that are not based on scientific basis, such as  
2 nurseries and health clinics which are largely widespread.

3 "Coordination between the different regions has become a  
4 pressing matter in light of the rationalization of financial  
5 support. Strategies for charity work must be put in place in  
6 order to limit exhausting the resources and in order to  
7 establish a comprehensive infrastructure which serves the  
8 general Palestinian situation with all honesty and  
9 objectivity.

10 "The domestic situation now calls for focusing on  
11 productive developmental projects which should limit  
12 unemployment and recession, and which contribute to finding  
13 national economic substitutes for the Palestinian people.

14 "Our last prayer is thanks be to God, Lord of the worlds.

15 "Shukri Abu Baker, executive director."

16 Q. Thank you.

17 Now, that document, just so we are clear, when you found  
18 it at InfoCom it was in Arabic, wasn't it?

19 A. It was.

20 Q. Now I am going to turn to something else.

21 A. Okay.

22 Q. One of the other things that you discussed in your direct  
23 examination involved a phone call between Shukri, Mr. Ashqar,  
24 and someone named Omar Yehya in September of 1993.

25 A. Okay.

1 Q. This is known as Ashqar No. 1. Okay?

2 A. Okay.

3 Q. And you recall -- Now, we are still before Hamas was  
4 designated right? 1993?

5 A. That is correct.

6 Q. Okay. And this was -- I believe you described it as kind  
7 of a planning meeting for the meeting in Philadelphia.  
8 Correct?

9 A. Correct.

10 Q. Okay. And you read a section that concluded with part of  
11 what Shukri was saying, so here is what I want you to do.

12 MS. HOLLANDER: Your Honor, at this time before she  
13 begins reading, I believe we have already -- You have already  
14 admitted Defendants' Ashqar No. 1 this morning. This is  
15 the --

16 THE COURT: Yes. Ashqar Wiretap No. 1?

17 MS. HOLLANDER: Yes.

18 THE COURT: Yes, that is admitted.

19 MS. HOLLANDER: And we have referenced it as  
20 Defendants' Ashqar No. 1.

21 THE COURT: Correct.

22 Q. (BY MS. HOLLANDER) Now, just to orient you, this is the  
23 Government exhibit which was a -- This was a long call, wasn't  
24 it?

25 A. It was.

1 Q. Right. And so what you provided to the jury was a  
2 portion of the call, or actually several portions. Correct?

3 A. That is correct.

4 Q. So I want to draw your attention to this portion right  
5 here, and do you see it says "I mean"?

6 A. I do.

7 Q. Okay. Let's be clear here about who is speaking there.  
8 So that is Shukri speaking. Correct?

9 A. Correct.

10 Q. Okay. And it starts right there?

11 A. Yes.

12 Q. And then the portion that you read ended right here where  
13 it says, "I mean, there is, there is fear in it. There is  
14 fear." Correct?

15 A. I believe so.

16 Q. Well then, this is your exhibit, I mean, the Government's  
17 exhibit. And then there is a line here which means it went on  
18 to some other part of the call. Correct?

19 A. That is correct. That line indicates that it was broken  
20 and they started up a little later.

21 Q. Okay. So what I want you to do is read that -- Let me  
22 make sure I get you to start at the right place here. Here we  
23 go. So we get this back into, start -- Let's start on the  
24 page before. Okay?

25 A. Okay.

1 Q. Just so we get the whole gist of the conversation, if you  
2 will start right here, this is where -- This is Shukri again.  
3 Right?

4 A. Correct.

5 Q. Okay. So I don't want you to have to read the whole  
6 thing, but if you will start right here, "There are some legal  
7 issues."

8 A. Okay. "There are some legal issues, I mean, that we need  
9 to know as well. I mean, the brothers contacted me before now  
10 and asked me to do the sermon on Friday. You see?

11 Omar Ahmad [sic] says, "Where?"

12 "Here in Richardson."

13 "Hmm."

14 "So far I am refusing to do so."

15 "Why?"

16 "Because I don't think I should play the role of an imam  
17 now and a guide for the nation, because the stuff I'm going to  
18 say, whether you like it or not, will be held against me  
19 because I'm a person in charge of the Foundation. So I can  
20 get up on the pulpit and be a hypocrite. I should talk in a  
21 clear, daring, and strong way.

22 Q. Let me stop you a minute. "So I can't get up."

23 A. I am sorry. "So I can't get up on the pulpit and be a  
24 hypocrite. I should talk in a clear, daring, and strong way  
25 on the pulpit. So I told him, 'Brothers, I have to think

1 about it until tomorrow morning. We will see. However, in  
2 principle I am opposed.' They are putting pressure on me to  
3 deliver the sermon on Friday because there is nobody else in  
4 the city who will talk about this subject and will talk about  
5 this subject."

6 "Yes."

7 Q. And then Shukri says?

8 A. "You see? So this is an issue that I'm working on. But  
9 I have no -- I mean, if someone puts pressure on me, I will go  
10 up and deliver the sermon and it could be because of a Friday  
11 sermon that one gets the Foundation in grave trouble."

12 "Okay. Excuse me, my brother. I'm, I mean, your words  
13 are reasonable if they are implemented in their entirety.  
14 However, Abou Ibrahim, for example, is the president of the  
15 Foundation and he preaches in the biggest mosque."

16 "So I don't know how do you --"

17 "I mean, Abou Ibrahim, he is more of --"

18 "Yes -- "

19 "-- an imam, my brother."

20 "No. Abou Ibrahim is more known as the president of the  
21 Holy Land Fund".

22 "No, I mean --"

23 "I resort to God."

24 "No. From the legal point of view my position, my  
25 position is more dangerous than Abou Ibrahim's because I am

1 the executive director."

2 Q. Now this is still Shukri speaking. Correct?

3 A. Correct.

4 "I mean, I am the one who faces people. Abou Ibrahim is  
5 an employee of the mosque or an imam. So when he talks as an  
6 imam, as a religious guide, still has the -- I mean, two  
7 formal positions. The religious position is stronger or more  
8 dominant in him than, than being the chairman. Normally a  
9 chairman is an honorary position. As for me, to step on the  
10 pulpit now and talk -- attack and speak honestly and then the  
11 next -- the next hour the media comes to me at the office of  
12 the Holy Land Foundation? Of course, they will ask, 'Who is  
13 this Shukri?' They will tell him, 'He is the executive  
14 director.' They will come to my office and conduct an  
15 interview with me. Thus, my role will shift from a charitable  
16 foundation to an organization for preaching, guidance,  
17 political awareness, and public mobilization. I mean, there  
18 is -- There is fear in it. There is fear. It is still easier  
19 for Abou Ibrahim because he is a sheik, my brother, he remains  
20 a sheik. I mean, no matter how much -- no matter how much the  
21 media speaks about him in the past, they did not mention the  
22 fact that he is chairman of the Holy Land Foundation. His  
23 social position is that he is an imam. His imam position remains  
24 stronger and he still has leverage to preach the way he  
25 desires to direct the public."

1 Q. We are going to go onto the next page, but your snippet  
2 ended right there where it said "There is fear." Correct?

3 A. Correct.

4 Q. Let's read this final part that Shukri says.

5 A. Okay. Shukri says, "This is what I mean. But, as far as  
6 for us over here, I mean, under the spot -- It is possible  
7 that one can say something, expressing his opinion, and he'll  
8 be surprised that later on it was one way or another, at least  
9 in the media it will represent the Foundation's point of  
10 view."

11 Q. Thank you.

12 Moving on to something else. Actually we are now -- That  
13 was just the beginning just before the meeting in  
14 Philadelphia. Correct?

15 A. That is correct.

16 Q. So if we are going in date order, as I have been trying  
17 to do, we are now up to the Philadelphia meeting.

18 A. Okay.

19 Q. Now, that whole meeting was audiotaped. Correct?

20 A. That is correct.

21 Q. Okay. And it involved a lot of people speaking.  
22 Correct?

23 A. It did.

24 Q. So if someone were to take the tape and edit it so a  
25 statement that was made at the end was put next to a statement



1     that someone made at the beginning, that could change the  
2     meaning, couldn't it?

3     A.    It could.

4     Q.    And this conference was -- And I don't want to repeat,  
5     except very briefly what we talked about the other day, but  
6     this conference was on October 2nd and 3rd of 1993.  Correct?

7     A.    Correct.

8     Q.    And the entire thing was audiotaped, except when they  
9     were changing the tapes.

10    A.    Obviously when they were changing the tapes they would  
11    miss --

12    Q.    They would miss something?

13    A.    Correct.

14    Q.    So all of them -- These are old fashioned tapes, so you  
15    had to take one out, put one in, and if they could do it fast  
16    they didn't miss too much; and if they did it a little more  
17    slowly, they missed some of the talk in between.  Correct?

18    A.    That is my understanding.

19    Q.    Okay.  And then the audiotapes were converted to computer  
20    files so they can be played on a computer.  Right?

21    A.    And this is the area where -- I am not the one who  
22    handled any of the technical aspects of it, so I am not sure  
23    exactly what they used to convert it.  All I know is that we  
24    have it here and we can listen to it today.

25    Q.    All I am saying is it got converted to computer files.

1 A. Right.

2 Q. The way we have it isn't the way it was taped.

3 A. Right.

4 Q. They are little tapes.

5 A. Right.

6 Q. That go in a tape recorder; a word people don't even use  
7 anymore.

8 A. I don't know if they were cassette tapes or reel to reel,  
9 or what they were.

10 Q. Okay. Now, I know you have that -- you are not sure what  
11 this number is before the .WAV, but -- And I am not sure if I  
12 asked you if you know what MTGB means?

13 A. I don't.

14 Q. Okay. But this in between appears to be the date,  
15 doesn't it, 19931002.

16 A. It does appear to be the date.

17 Q. Because there are some that are 19931002, and then there  
18 are some that are 19931003.

19 A. Frankly, I have not looked at this little audio file  
20 code, so I am assuming there would be, since there were  
21 recordings on the 3rd, but I don't know for sure because I  
22 have never looked at that.

23 Q. Well, let's just find one. These are the Government's  
24 exhibits. The 3rd was a shorter day, wasn't it?

25 A. It was.

1 Q. There aren't as many of those. Here is one. So  
2 we -- The first one we were looking at was Philly Meeting No.  
3 4, and now we are looking at -- these are the Government's  
4 Philly Meeting No. 12, and it has 19931003.

5 A. Correct.

6 Q. Okay. Now, I want to look at the order of these. The  
7 Government introduced 12 of these. I mean 18 of these.  
8 Right?

9 A. Correct.

10 Q. Eighteen. I am looking at a number here, 12, but it is  
11 18 tapes, eighteen files.

12 A. Correct.

13 Q. Okay. And the first one I want to look at is the one  
14 that is called Philly Meeting No. 8. I thought it was Philly  
15 Meeting 8. I may be wrong. I am sorry. It is Philly Meeting  
16 18 is the one I want. I can't even read my own handwriting.

17 All right. Philly meeting 18. This is Philly Meeting  
18 18. Okay?

19 A. Okay.

20 Q. And the very last page. And we have Shukri speaking  
21 again. Right?

22 A. Correct.

23 Q. And if you can just read just that paragraph.

24 A. Okay. It says "May God give you strength. May God bless  
25 our brother, good and bless you. Now, God's willing, we will

1 have approximately ten minutes from 10:30 -- 1:30 there will  
2 be a break and a rest. Abou Mohamed, have we appointed the  
3 prayers time? We -- Allow me, my brothers. Allow me. From  
4 5:00 until 7:00 there will be prayers and lunch. We will pray  
5 together then go to lunch, or the other way around. Let's  
6 take a ten-minute break. Those who want to drink coffee  
7 and -- At 1:30. It is 1:30 now. Fifteen minutes, our  
8 brothers, fifteen minutes. We should be back here at 1:40,  
9 Gods's willing. We will start then. Akram, Akram."

10 Q. Now, that one said audio file MTGB. Right?

11 A. That is what it says.

12 Q. 19931002 and then it has 5.WAV. Right?

13 A. That is what it says.

14 Q. All right. And that was Philly Meeting No. 18, the last  
15 one in the Government series. Now, let's look at what the  
16 Government has designated as Philly Meeting No. 14. Okay?

17 A. Okay.

18 Q. And what is the first words there?

19 A. "Group still in break the first 20 minutes of this  
20 recording."

21 Q. And what does that say? Just read the audio file, what  
22 it says there?

23 A. "Audio file: MTGB19931002\_6.WAV."

24 Q. So it would tend to support the theory, would it not,  
25 that these numbers, the 5 and the 6, are actually the sequence

1 in which they were recorded, since they were going to prayer  
2 and then they come back from prayer. That supports that  
3 theory, doesn't it?

4 A. I am a little uncomfortable supporting a theory when I  
5 don't know what that -- I am not the technical person. We  
6 have technical people who I am sure can answer that question,  
7 but because I don't know what that represents or who put that  
8 on there, I would hate to theorize under oath about it.

9 Q. Okay. Well, let's look at the substance of what was  
10 said, and we will probably see some other examples. Okay?

11 A. Okay.

12 Q. During your direct the Prosecutors introduced a number of  
13 excerpts from the Philadelphia meeting.

14 A. That is correct.

15 Q. In which the speakers -- some of those the speakers  
16 expressed opposition to the Oslo Accords.

17 A. They did.

18 Q. And there were some other segments where people, or  
19 Shukri said that they should be open to other points of view.  
20 Correct? For example, let me show you an example.

21 A. Okay.

22 Q. I would like you to look at Government's Philly Meeting  
23 No. 5. This is Philly Meeting No. 5. Okay? We are going  
24 to -- And specifically what I want to focus on here is talking  
25 about the festivals. Okay?

1 A. Okay.

2 Q. Because they did talk about the festivals in the Philly  
3 meeting. Right?

4 A. They did.

5 Q. Okay. The part I would like you to read, it is not very  
6 long, it is really just this page. I may have to move it a  
7 little bit for you to get all of it. We will start right  
8 there. It is page 7. That is Shukri speaking. Right?

9 A. That is correct.

10 Q. Where he says, "The issue of the festivals."

11 A. Okay. It says, "The issue of the festivals, I believe it  
12 is a matter of coordination. I believe they would be a great  
13 opportunity to be exposed to a large crowd. There are about  
14 15 festivals, and each festival has a large number of people  
15 in it. I see that we shouldn't follow the same old methods by  
16 making the song the main show. We should benefit from our  
17 presence by making awareness the main show; we give more time  
18 to the speaker and give him instructions that it shouldn't be  
19 like a Friday sermon. There is no need for the Friday sermons  
20 my brothers, please. The festival is not a Friday sermon.  
21 Let's be a little bit objective and present issues and numbers  
22 to people which will shock people and make them know what is  
23 going on. Let them get out of the festival educated and --

24 "Do you have a problem with the sheiks?"

25 "My point, my brothers, because we need to face people

1 with reality, let them come to the festival and benefit more  
2 than listening to a certain tune. This is one idea. The  
3 second thing is very intelligent, which is to involve people.  
4 I suggest a third idea, which is to conduct a very quick  
5 survey. It can be designed now to let the people in  
6 attendance participate in a survey made up of three or four  
7 questions. Do you approve of the accord?"

8 "A questionnaire."

9 "Let them -- At least we would have a poll from the  
10 field. We will know how people think, how people think. This  
11 will benefit us as we will know the nature of our public and  
12 how they think. You might be surprised that maybe 70 percent  
13 of your public doesn't know or is not educated. Let's do this  
14 so that it help us with the awareness issue."

15 "We will conduct a survey after the songs and  
16 everything."

17 "By God I say, you want to make it a main focus for the  
18 song. I believe that you are going to lose so much potential  
19 that you could benefit from. People are coming to you, my  
20 brother and they are right there."

21 Q. Thank you. You also read, if I can find it, on page 8 of  
22 the same exhibit something someone said right after Shukri  
23 spoke, and now I am not finding it. But I think that is what  
24 Shukri said that I wanted you to read.

25 What you read -- Here is what you read. In other words,

1 the part that you read to the jury was "In support of what our  
2 brother Shukri said." Right? That is the part that you read  
3 to the jury.

4 A. I believe it is. I believe it is.

5 Q. Okay. So what we have just read is what Shukri's actual  
6 words were that he was responding to. Correct?

7 A. Correct.

8 Q. Okay. Now, I would also like to go to Government's  
9 Philly Meeting No. 14. I just want you to read one other  
10 section here. And that is where Shukri talks about needing to  
11 act according to American law. And this is Philly Meeting No.  
12 14. Right?

13 A. Right.

14 Q. And it is the very end of this. We have to make one  
15 correction here, because I am using a kind of old one. We  
16 corrected these words. Right? You corrected those?

17 A. Correct.

18 Q. Okay. Now, what I would like you to do is read just this  
19 page. It is going to end on this page and starting where I  
20 have highlighted it right after "strategies," where he says  
21 "one." And that is Shukri speaking. Do you want me to go  
22 back? It is a very long section?

23 A. It is Shukri speaking.

24 Q. It is Shukri speaking. Okay. So we don't have to read  
25 all of, it but starting there with "one."



1 A. Okay. It says, "One. The address should steer totally  
2 clear from any tension towards the issue of the self-rule."

3 Q. Wait a minute. I think I have something wrong here.  
4 Hold on. We will correct this before we get them, but some of  
5 these translations have been corrected along the way. Go  
6 ahead and read it.

7 A. "One. The address should steer totally clear from any  
8 tension towards the issue of the self-rule. I believe that I  
9 as a charity organization should not give an opinion or a  
10 political judgment at all. I have no relationship with that.  
11 I am not a political institution. I want to -- There is a new  
12 reality I'm dealing with now. It is not my job to attack the  
13 self-rule. This is my view. Amicable relationship must be  
14 maintained with all parties inside Palestine. This goes  
15 without saying, my brothers. We must not put any factional or  
16 partisan influence on the Foundation in America as it is the  
17 charitable arm of this or that. No, I say that this is wrong,  
18 and we must act out of a charitable stand. We must act as an  
19 American organization which is registered in America and which  
20 cares for the interests of the Palestinian people. It doesn't  
21 cater to the interests of a specific party. Our relationship  
22 with everyone must be good, regardless."

23 "Including the Muslims, of course."

24 "The Muslims, of course. There is no problem, my  
25 brother. This is -- This is -- In the past we gave Islamists

1     \$100,000 and we give others \$5,000. Just because they're --  
2     we should never ever be the agents of others, but we should  
3     maintain a balance. Taking time before spending money during  
4     this time. What do I mean by taking time before spending  
5     money? The Foundation must stay on its legal track as far as  
6     charitable projects are concerned without going after a  
7     sentiment which could harm the foundation legally or which  
8     consume its budget with an objective reason. We must be  
9     careful. I know that there is a crisis now. I know that  
10    there is suffocation now. But you are an organization and you  
11    must care about your interests, the long-term and the  
12    continuity. It doesn't help me if a party asks me to send  
13    \$100,000 and we send it to them and -- Our goal to follow must  
14    be objective, studied. Every project ought to be documented,  
15    documented and studied, and I can confront people with it  
16    without trying to conceal anything from them. This is very  
17    important as a time might come and you -- which makes you  
18    deviate from the legal track in order to satisfy a certain  
19    issue and then --"

20    Q. Now, it says page 7 or 8, but there is nothing on page 8.  
21    Right?

22    A. I don't see anything on that page.

23    Q. There is nothing on page 8.

24    A. Right.

25    Q. Okay. But in fact, he continues speaking, and just read

1 the end of what he says on that subject right here, this  
2 paragraph.

3 A. "And I say that the address doesn't necessarily have to  
4 be the same one for newspapers or correspondence. By address  
5 I mean work methods. When speaking to the Islamic community,  
6 I use a certain address and I respond to certain needs. The  
7 American public has certain needs and the nationalist public  
8 has other certain needs, and it is important that this  
9 foundation does not -- I mean, it should diversify its  
10 programs to absorb all the currents on the field. It does not  
11 represent the Foundation to have -- He who is going to give us  
12 money, is he going to provide it under conditions? Give me  
13 the money, whether it is from an Arab or a Jew, I don't care,  
14 just give me the money. Okay? The prohibited areas which we  
15 might face are not many, but caution remains important. I  
16 mean, someone might try to frame you to bring disaster upon  
17 you. This is regarding the charitable organizations. We  
18 shouldn't take part in any illegal transactions. Other than  
19 that we can manage. That's it."

20 Q. Now, this first part where he was speaking was Philly  
21 Meeting No. 14. Right?

22 A. Correct.

23 Q. And that one says audio file MTGB19931002\_6.WAV. Right?

24 A. That is what it says.

25 Q. And where this appears to continue in the same subject,

1 it is Philly Meeting No. 13. Right?

2 A. And I can't state for certain without looking at the  
3 tapes that this is a continuation of what he was saying right  
4 there.

5 Q. Okay. I know you can't, but just follow along with me  
6 here. It is Philly Meeting 13. Right?

7 A. Correct.

8 Q. And this one does say 19931002\_7.WAV. Right?

9 A. It does.

10 Q. So if these numbers might mean anything, it is 6 and 7.  
11 Correct?

12 A. If they do, it is.

13 Q. All right. Now, there is another section, the final  
14 section I want to draw your attention to, and this is  
15 Defendants' Exhibit D-Philly No. 14.

16 MS. HOLLANDER: Which was introduced this morning  
17 and admitted this morning, Your Honor?

18 THE COURT: Yes.

19 MS. HOLLANDER: And we also need to admit, we will  
20 have to do it later, D-Philly Meeting No. 14-A, the audiotape  
21 that goes with it.

22 THE COURT: Okay.

23 MS. HOLLANDER: I think all of them have audiotapes.  
24 It is -- The audiotape is the real evidence, so we move  
25 D-Philadelphia Meeting No. 14-A at this time.

1 THE COURT: Mr. Jonas?

2 MR. JONAS: Subject to what was discussed  
3 previously.

4 THE COURT: And D-Philly Meeting No. 14-A is  
5 admitted.

6 MS. HOLLANDER: Thank you, Your Honor.

7 Q. (BY MS. HOLLANDER) Now, just to orient you, Agent Burns,  
8 because this is the Defendants' exhibit, and this one says  
9 audio file 19931002\_14, doesn't it?

10 A. It does.

11 Q. Okay. And I just want you to focus on one part of that.  
12 Just make sure I have got the right part, it is just one  
13 paragraph that Shukri talks about in that transcript. Okay?

14 A. Okay.

15 Q. It is this paragraph.

16 A. Okay. Do you want me to read it?

17 Q. Yes, please.

18 A. "I have a small remark, a point, and we will move  
19 forward. My brothers, frankly speaking, we have come from the  
20 far ends of the world, and it is -- a fundamental part of our  
21 work is to be exposed to strange and somewhat new ideas. I  
22 mean, we don't have to follow the same routine. The situation  
23 has changed and I see that we bear each other. The second  
24 thing is that we shouldn't be hasty. Allow me, shouldn't be  
25 too hasty with the sharia rulings. I mean, we have a

1 disagreement over an issue and he says, 'You've deviated from  
2 the religion.' What does the sharia say? For the sharia to  
3 give a ruling on these issues, my brother, you need a  
4 specialized council of scholars which understands the issues.  
5 But for someone to present issues, certain ideas which sound  
6 strange and then comes a person who wants to stop him and  
7 says, 'This is permissible or prohibited in sharia,' my  
8 brothers, this is not a way for discussion, because you're  
9 blocking a lot of ideas. Until now, until now the nature of  
10 our relationship with the American society -- The brother  
11 mentioned the Hindus. We don't know the society. We don't  
12 know until now if the American society is being hostile to us  
13 for a reason of principle, religion, or because of interests.  
14 In other words, if we transformed all the Jewish lobby in  
15 Washington into an Islamic lobby and we had the same power as  
16 they do, will the U.S. policy change or not? This is a big  
17 question. What I'm saying, that it is very hard for every  
18 issue we discuss to judge it from a sharia stand and judge it  
19 according to sharia within minutes that is prohibited or  
20 permissible and let it slide. Come on, next idea. Let us be  
21 a little bit open, and if we see an idea that is worth  
22 studying, we can refer it to the is sharia councils and stuff  
23 and make a judgment call on it."

24 Q. Now, that particular transcript wasn't included in the  
25 Government transcripts, was it?

1 A. In the ones that we introduced today or this week?

2 Q. Last week.

3 A. I don't know if it was or not. I know that the entire  
4 meeting was supposed to have been exhibited. But I did not do  
5 the exhibiting, so I can't say for certain that that portion  
6 was in there.

7 Q. Well, let's just look. Let me get the Government's No.  
8 18, which is somewhat put out of order here and make sure they  
9 are put back in order.

10 MS. HOLLANDER: May I approach, Your Honor?

11 THE COURT: Yes.

12 MS. HOLLANDER: I can do this at her desk easier  
13 than here.

14 Q. (BY MS. HOLLANDER) Now, Agent Burns, you have got all of  
15 the Government's No. 18, don't you?

16 A. Yes, I do.

17 Q. And you have got Defendants' Philly Meeting No. 14.  
18 Right?

19 A. Correct.

20 Q. And can you make sure that that one is not one of the 18?

21 A. Okay.

22 THE COURT: Counsel, how many pages is she going to  
23 have to look through?

24 MS. HOLLANDER: I think she is going to have to just  
25 look at the fronts of them. I can make it easier for her.

1 THE COURT: Yes.

2 MS. HOLLANDER: I remember now that I had a plan.

3 THE WITNESS: No, it is not in here.

4 MS. HOLLANDER: May I approach, Your Honor?

5 THE COURT: Yes.

6 Q. (BY MS. HOLLANDER) Okay. So now, of the Government's  
7 No. 18, then Defendants' Philly Exhibit No. 14 wasn't one of  
8 those. Correct?

9 A. That is correct.

10 Q. Okay. So that is one that you didn't introduce during  
11 your direct examination. Correct? The Government didn't  
12 introduce?

13 A. It wouldn't have been admitted because it is not one of  
14 those 18.

15 Q. It is not one of 18. Right. But it is part of the  
16 Philly meeting. There is no question about that, is there?

17 A. That is correct.

18 Q. Okay. Now, I want you to do one more thing in relation  
19 to the Philadelphia meeting, and then we are going to move on.  
20 I have written here just Philly Meeting No. 1 through 18.  
21 Okay?

22 A. Okay.

23 Q. And I am going to give these back to you because I think  
24 it will be easier if you have them rather than if I have to  
25 keep moving things back and forth. And I will just tell



1       you --

2                   MS. HOLLANDER:   May I approach?

3                   THE COURT:    Yes.

4                   MS. HOLLANDER:   I think this will be easier now that  
5       we have got them in order.

6       Q.       (BY MS. HOLLANDER)   Now, the one that is marked Philly  
7       Meeting No. 1, what I am focusing on is this little number,  
8       the little number that comes before .WAV.   The first one  
9       doesn't have a number on it, does it?

10      A.       It doesn't.

11      Q.       For some reason it doesn't have anything where it says  
12      audio file.   Right?

13      A.       Correct.

14      Q.       Okay.

15                   MR. JONAS:   Your Honor, I object to this.   Agent  
16      Burns has already testified she doesn't know what that  
17      numbering system is.   She wasn't part of creating that  
18      numbering system or the recording of this.

19                   THE COURT:   She may ask the question.   Go ahead.

20                   MS. HOLLANDER:   Thank you.

21      Q.       (BY MS. HOLLANDER)   So I am just going to put a line  
22      there.   Okay?   Because we don't know even what the number is.  
23      I am not asking you to -- I am just asking you to tell me what  
24      it is.

25                   Now Philly Meeting No. 2, what is the number that is

1 written there before .WAV?

2 A. MTGB19931002\_16.WAV.

3 Q. Okay. So that is No. 16. So Philly Meeting No. 3, you  
4 don't have to read the whole thing, just read the number that  
5 is before .WAV?

6 A. It doesn't have it on there.

7 Q. That is the other one that doesn't have it on there. It  
8 doesn't say audio file or anything.

9 A. Correct.

10 Q. Now, Philly Meeting No. 4, what number does it have just  
11 before .WAV?

12 A. 15.

13 Q. And what about Philly Meeting No. 5?

14 A. 11.

15 Q. Now, let me ask you one other thing. I should have done  
16 this. Philly Meeting No. 2, there is one other thing I need  
17 you to tell me, and that is that the October 2nd or October  
18 3rd. We don't know about the first one. Right? The first  
19 one doesn't --

20 A. That is correct.

21 Q. Okay. But for Philly Meeting No. 2, is that 1002 or  
22 1003?

23 A. 1002.

24 Q. So that is 1002. And Philly Meeting No. 3 we don't know  
25 anything about.

1 A. It doesn't have a number on there.

2 Q. So Philly Meeting No. 4, is that 1002 or 1003?

3 A. It is 1002.

4 Q. That is the one that was 15?

5 A. Correct.

6 Q. And Philly Meeting No. 5 is 11.WAV?

7 A. It is 11.

8 Q. And is it 1002 or 1003?

9 A. It says 1002.

10 Q. Philly Meeting No. 6?

11 A. 1002.

12 Q. And what is the .WAV number?

13 A. 4.

14 Q. And Philly Meeting No. 7?

15 A. 1002.

16 Q. And the number?

17 A. 12.

18 Q. Philly Meeting No. 8?

19 A. 1003.

20 Q. I am going to put it out here so we can find it later.

21 And what is the number?

22 A. 3.

23 Q. All right. And No. 9, Philly Meeting No. 9?

24 A. Sorry. I had them out of order. 1003, 1.

25 Q. Philly Meeting No. 10?

1 A. 1002.

2 Q. And what --

3 A. 3.

4 Q. No. 11?

5 A. 1002.

6 Q. And what is the little number?

7 A. 9.

8 Q. Philly Meeting No. 12?

9 A. 1003.

10 Q. And the little number before .WAV?

11 A. 2.

12 Q. No. 13?

13 A. 1002.

14 Q. And the little number?

15 A. 7.

16 Q. No. 14?

17 A. 1002.

18 Q. And the little number on that one?

19 A. 6.

20 Q. No. 15?

21 A. 1002.

22 Q. And the little number there?

23 A. 8.

24 Q. No. 16?

25 A. 1002.

1 Q. And the little number?

2 A. 13.

3 Q. No. 17?

4 A. 1002.

5 Q. And its little number?

6 A. 10.

7 Q. And No. 18?

8 A. 1002.

9 Q. And its little number?

10 A. 5.

11 Q. Now, if we don't count the 03s, because those were a  
12 separate day. Right? We have -- We don't have No. 1 and No.  
13 2, but we are missing two. Right? We don't know what those  
14 are. Right?

15 A. Correct.

16 Q. But we have No. 3. Right?

17 A. Yes.

18 Q. No. 4?

19 A. Correct.

20 Q. No. 5. Correct?

21 A. I don't see it on the screen. I can't --

22 Q. I am sorry. No. 5?

23 A. Yes.

24 Q. No. 6?

25 A. Correct.

- 1 Q. No. 7?
- 2 A. Yes.
- 3 Q. No. 8?
- 4 A. Correct.
- 5 Q. No. 9?
- 6 A. Correct.
- 7 Q. No. 10?
- 8 A. Correct.
- 9 Q. No. 11?
- 10 A. Correct.
- 11 Q. No. 12?
- 12 A. That is correct.
- 13 Q. No. 13?
- 14 A. Yes.
- 15 Q. And then it skips to No. 15. Right?
- 16 A. It does.
- 17 Q. We don't have a No. 14, do we?
- 18 A. Not that I see.
- 19 Q. And then we have a No. 16. Right?
- 20 A. Correct.
- 21 Q. And Defendants' Exhibit D-Philly No. 14, that is the No.
- 22 14, isn't it?
- 23 A. I don't have that one up here.
- 24 Q. It is right here. That is No. 14. Right?
- 25 A. Correct.

1 Q. So I am not going to ask you what those numbers mean  
2 because you said you don't know.

3 MS. HOLLANDER: Can I retrieve my exhibits, Your  
4 Honor?

5 THE COURT: Yes.

6 MS. HOLLANDER: Do you want me to keep going? I am  
7 about to go to something else.

8 THE COURT: Yes, go ahead.

9 MS. HOLLANDER: I made this document on the stand  
10 here, Your Honor. I would like to mark it as a demonstrative,  
11 Defendants' Demonstrative, and I don't know what number it is.  
12 It would be D-1352. And move it into evidence as a  
13 demonstrative.

14 MR. JONAS: Your Honor, I object. I mean, there has  
15 been no testimony what this means.

16 THE COURT: I will sustain that until you connect it  
17 in some way. You can reoffer it later, if you can connect  
18 it --

19 MS. HOLLANDER: Okay, Your Honor.

20 Q. (BY MS. HOLLANDER) Just so we are clear before we leave  
21 that Defendants' Exhibit, Philly No. 14 was part of the  
22 Philadelphia meeting. Correct?

23 A. Correct.

24 Q. And it was part that was not included in the original 18  
25 that were introduced during your direct examination. Correct?

1 MR. JONAS: Your Honor, I object.

2 THE COURT: That is about the third time you asked,  
3 counsel. She has answered.

4 Q. (BY MS. HOLLANDER) Let me move on to something else.  
5 Okay?

6 A. Okay.

7 Q. And I am not going to ask you to read anymore, for a  
8 while at least.

9 A. Thank you.

10 Q. Maybe not at all. I want to talk to you a little bit  
11 about the Oslo Accords, because you said that is what the  
12 Philadelphia meeting was about, in your opinion. Correct?

13 A. I believe we said that the reason the meeting was called  
14 was as a result of the signing of the accords, but that was  
15 not what it was about.

16 Q. You did testify that the accord was between the Israeli  
17 people and the Palestinian people, on your direct. That is  
18 what --

19 A. Correct.

20 Q. A quote from you. In fact, I am correct, am I not, that  
21 it was the government of Israel on one side and the  
22 Palestinian people on the other side, because at that time  
23 there was no Palestinian government. Correct?

24 A. That is correct.

25 Q. The Palestinian Authority was actually created as a



1 result of this accord. Correct?

2 A. It was.

3 Q. And the political party in control of the Palestinian  
4 Authority when it was controlled was the party known as Fatah,  
5 F-A-T-A-H.

6 A. That is correct.

7 Q. And that is a secular party, not a religious party. Is  
8 that correct?

9 A. That is correct.

10 Q. Now, and it actually controlled -- It was the controlling  
11 party of the Palestinian Authority until the elections of  
12 2006. Correct?

13 A. Correct.

14 Q. Okay. Now, throughout the Philadelphia meeting, and  
15 particularly in the parts that you read during your direct  
16 examination, you heard Shukri Abu Baker talk about --  
17 specifically about Gaza and Jericho. Do you recall?

18 A. I do.

19 Q. And that is because those are the parts that were under  
20 Palestinian control.

21 A. And if we are talking about decisions --

22 MR. JONAS: I will object, Your Honor. She is  
23 asking the witness her understanding of the reason why the  
24 Defendant said something.

25 MS. HOLLANDER: No, that is not what I am asking

1 her, Your Honor. I am asking her --

2 THE COURT: If she heard Mr. Baker specifically talk  
3 about Gaza and Jericho, if she remembers hearing that.

4 MS. HOLLANDER: And she said she did.

5 THE COURT: Okay.

6 Q. (BY MS. HOLLANDER) Now, I want to show you what has been  
7 marked as Defendants' -- Admitted as Defendant Exhibit No.  
8 1013. Okay?

9 A. Okay.

10 Q. And this is a map and it says at the top "Oslo 1995." Do  
11 you see that?

12 A. I do.

13 Q. You do know that the areas that were under Palestinian  
14 control at that time were Gaza and Jericho and a few other  
15 cities. Correct?

16 A. I do not know all of the specifics of Oslo. I think we  
17 have talked about this before. I mean, I know that Gaza was  
18 one of the areas that was a subject of that, but as far as  
19 details of Oslo and what was to go to the Palestinians versus  
20 remain with the Israelis, I am not sure on that.

21 Q. Well, you have previously testified that -- when asked if  
22 throughout the Philadelphia meeting the parts, that you had  
23 read that you heard Shukri talk about Gaza and Jericho, that  
24 is because they were under Palestinian control, and that is  
25 what you previously testified, and I assume that you would

1 continue to testify that way. Correct?

2 A. I think that is the question you asked me and Mr. Jonas  
3 objected, and then the Judge asked you if you asked me if I  
4 heard Shukri talk about Gaza and Jericho and you said I did.

5 Q. I am not talking about today. I am talking about your  
6 previous testimony. You have previously testified --

7 Let me just go on. Okay? You see where Jericho is,  
8 don't you?

9 A. I do.

10 Q. And it is over here. Right?

11 A. It is.

12 Q. And you see Bethlehem?

13 A. I do.

14 Q. And Hebron?

15 A. I do.

16 Q. And Ramallah?

17 A. Yes.

18 Q. And Nablus?

19 A. Yes.

20 Q. Jenin?

21 A. Yes.

22 Q. Tulkarem?

23 A. Yes.

24 Q. And Qalqilya?

25 A. Yes.

1 Q. And those say area A. Right?

2 A. They do.

3 Q. And you -- Is it your testimony today that you don't know  
4 that those were the parts under Palestinian control?

5 MR. JONAS: I am going to object. One, this is  
6 beyond the scope of direct; and two, we are getting into that  
7 political area that Your Honor did not want us to get into.

8 THE COURT: She may ask. If you know you may answer  
9 that, Agent.

10 THE WITNESS: I am sorry. What was your question?

11 Q. (BY MS. HOLLANDER) You do know that those were the areas  
12 under Palestinian control, and that is why they were talking  
13 about those areas. Correct?

14 A. I know that the specific towns in the west Bank, Qalqilya  
15 Tulkarem, Nablus, that those areas were part of the  
16 Palestinian territories. The Jericho issue, I have never  
17 looked at it so I don't want to speak about it because, again,  
18 I know what they have talked about but I don't know the  
19 details of Oslo.

20 Q. Okay. So you are really not an expert on Oslo at all,  
21 are you?

22 A. I never said I was.

23 Q. And so you don't know who else might have opposed Oslo  
24 other than these Defendants. Right?

25 A. I know that extremists on both sides opposed the peace

1       accords.

2       Q.     Well, but you know that there were Christian Palestinians  
3       who didn't -- who opposed the Oslo, too, because they thought  
4       it gave away too much land.    Correct?

5       A.     I am sure there were some Christian Palestinians who  
6       opposed it.

7       Q.     Because they thought it gave away too much land.

8       A.     I never discussed it with them, so I don't know.

9       Q.     So you don't really know why people opposed -- the  
10       different reasons people had for opposing Oslo, because you  
11       haven't studied it?

12       A.     I know why Hamas and the Defendants opposed it--because  
13       they did not want to compromise at all.

14       Q.     You don't know why other groups opposed it.   Is that  
15       correct?

16       A.     I know that there were certain extremist groups, not just  
17       Hamas, who opposed any type of peace or compromise whatsoever.  
18       I am sure other people had specific issues with parts of Oslo,  
19       but these Defendants opposed it in general.

20       Q.     Did you know that when Israel voted on it that almost  
21       half of the people in the Israeli KNESSET voted against it?  
22       Did you know that?

23       A.     I did not.

24       Q.     Did you know that an Israeli man who opposed the accord  
25       actually killed the Israeli prime minister because he signed

1 it? Did you know that?

2 A. I know the Israeli prime minister was killed by an  
3 extremist.

4 Q. A Jewish extremist?

5 A. That is correct.

6 Q. Who opposed Oslo?

7 A. I don't know if he did or didn't.

8 Q. Do you know the positions of the political parties that  
9 were in power in Israel and their positions regarding Oslo?

10 A. I am not a politician so I don't study the politics of  
11 Israeli political groups.

12 Q. So you don't know?

13 A. No.

14 Q. Okay. I want to direct your attention now to one of your  
15 charts. I will put this up here for a minute. You talked on  
16 direct examination about -- This was your chart or the  
17 Government's chart that talks about Hamas leaders in the  
18 1990s. Right?

19 A. Right.

20 Q. And one of the people listed there is Jamil Hamami.  
21 Correct?

22 A. Correct.

23 Q. And the chart says Hamas leader West Bank. Correct?

24 A. Correct.

25 Q. And you testified on direct and you know that he came to

1 the United States. Correct?

2 A. That is correct.

3 Q. I believe you testified on direct that he came to the  
4 United States, you thought, in 1999. Right?

5 A. I am not sure on the dates, but I know it was late '90s,  
6 early 2000 maybe.

7 Q. I think you are probably right. And I would like to  
8 direct your attention to Defendants' Exhibit No. 86. I am  
9 sorry No. 87. Okay?

10 A. Okay.

11 Q. Now, even though he is on this chart here as being a  
12 Hamas leader, you are aware that he was invited to the United  
13 States on behalf of the United States Information Agency.

14 A. I am.

15 Q. And that he came as a distinguished guest from the  
16 occupied territories and traveled around the United States.

17 A. I believe it was about three years after he was  
18 excommunicated from Hamas.

19 Q. You don't know that he was -- There is no such thing as  
20 being excommunicated from Hamas. It is not a Catholic church.  
21 It is --

22 A. It is not a Catholic church, but he was kicked out.

23 Q. You are not -- You don't have any personal knowledge of  
24 that, do you?

25 A. I have actually met him and we talked about it.

1 Q. But -- Well, but he came to -- Even though he was listed  
2 as a leader in the '90s, the United States government invited  
3 him here in 1999. Correct?

4 A. After he had stepped out of Hamas, yes.

5 Q. All right. So people change, don't they?

6 MR. JONAS: Objection.

7 Q. (BY MS. HOLLANDER) Now, one of the documents admitted  
8 during your direct testimony was a form letter from Shukri to  
9 HLF donors. Right? I believe it was HLF Search No. 94. Do  
10 you recall this?

11 A. I do.

12 Q. Part of that exhibit included a letter -- This is the  
13 letter. Right? In other words, it is on Holy Land logo.

14 A. Correct.

15 Q. And it was August 22nd, 1997. Right?

16 A. That is correct.

17 Q. And in this letter, what I would like you to is read the  
18 part that starts right in the middle. It says -- You don't  
19 have to read the whole thing, but "I am cordially inviting  
20 you."

21 A. It says, "I am cordially inviting you to attend this  
22 year's annual fundraising event. This year's program promises  
23 to be unforgettable. Five innocent victims of senseless  
24 violence from the West Bank and Lebanon will be here to tell  
25 you their horrifying, traumatic experiences. While in the



1 States, these children will undergo numerous delicate  
2 surgeries unavailable to them overseas. A remarkable video of  
3 the current situation in Palestinian produced by Tom Hayes, an  
4 American journalist, will leave you breathless."

5 Q. Now, you actually found that documentary by Tom Hayes in  
6 the Holy Land search, didn't you?

7 A. I may have.

8 Q. And it is a documentary --

9 MS. HOLLANDER: May I approach to refresh her  
10 recollection, Your Honor?

11 THE COURT: Actually approach the bench on that.  
12 (The following was had outside the hearing of the  
13 jury.)

14 MS. HOLLANDER: I am not meaning to introduce it.

15 THE COURT: Then you don't need to identify it.

16 MS. HOLLANDER: I am not going to ask her --

17 THE COURT: If we are not introducing it, we are not  
18 going to identify it. Is that the PBS documentary?

19 MS. HOLLANDER: Yes.

20 THE COURT: I am sustaining the objection. You  
21 brought up that you were going to go into this, I viewed it,  
22 and I am going to sustain the objection to that. We don't  
23 need to discuss it or have her identify it because I am  
24 sustaining the objection to that.

25 MS. HOLLANDER: Let me ask you this, if I could just

1 do this. Could I just ask her if she identifies that she saw  
2 the documentary?

3 THE COURT: Why? It is not coming into evidence.

4 MS. HOLLANDER: Well, I may need to make a proffer  
5 later.

6 THE COURT: We can do that outside the presence of  
7 the jury.

8 MS. HOLLANDER: She is the only one that can  
9 authenticate --

10 THE COURT: We don't need to do that in front of the  
11 jury, though.

12 (The following was had in the presence and hearing  
13 of the jury.)

14 MS. HOLLANDER: Your honor, I have one more area  
15 that is kind of lengthy.

16 THE COURT: Go ahead and start it. We will work  
17 about another five or ten minutes.

18 MS. HOLLANDER: Okay.

19 Q. (BY MS. HOLLANDER) I want to shift your focus again.

20 A. Okay.

21 Q. I am trying to cover what you covered, so I am trying to  
22 keep it in chronological order, but a little bit going back.  
23 Well, actually I am not. I am still staying pretty much  
24 current, but I want to follow up on your direct examination  
25 and also what you read here today, and that was a section in

1 the Philadelphia meeting where Shukri talked about how in the  
2 past they have given \$100,000 to Islamists and \$5,000 to  
3 others. And you read it last week and read it again today.  
4 Right?

5 A. Correct.

6 Q. Now, I have a few additional questions about this, but I  
7 want to focus your attention on documents and items that you  
8 found in the various searches showing what Holy Land actually  
9 did after the Philadelphia meeting. So let's -- You said  
10 during direct examination that Holy Land gave \$5,000 to  
11 Oklahoma City after the explosion there in 1995. Correct?

12 A. I said they gave that and did several other things on  
13 their behalf, but that was an example that they gave.

14 Q. I think you said that they did that and some blood  
15 donations. So let's start with Oklahoma, \$5,000.

16 MS. HOLLANDER: And these exhibits I believe have  
17 already been admitted, but in an abundance of caution  
18 Defendants' No. 1058 is the first one. I don't think there  
19 was any objection.

20 THE COURT: Any objection to that, counsel?

21 MR. JONAS: One moment, Your Honor.

22 THE COURT: I show no objection on your previous  
23 filings. That is admitted. Why don't you read them all.

24 MS. HOLLANDER: No. 1058, 119, then there is also  
25 1059 and 1060.

1 THE COURT: Okay.

2 MS. HOLLANDER: And 1055, and after that we are  
3 going to have to -- We get to the video. Those are the ones I  
4 am going to be dealing with at first. Okay?

5 THE COURT: All right. And those exhibits are  
6 admitted.

7 MS. HOLLANDER: Thank you, Your Honor.

8 Q. (BY MS. HOLLANDER) Now, this is the check, is it not, to  
9 the Oklahoma -- From right after the explosion there in 1995.  
10 Correct? \$5,000 check?

11 A. Yes, it is a check to Oklahoma City Relief.

12 Q. And you know that Holy Land also sent volunteers, and I  
13 think you mentioned this a little bit, they did some blood  
14 donations. Correct?

15 A. That is correct.

16 Q. Okay. Defendants' Exhibit No. 119, this is a letter of  
17 thank you to Holy Land from Blood Care in Dallas. Correct?

18 A. Correct.

19 Q. Now, Holy Land also gave \$2,500 to the Red Cross,  
20 Defendants' Exhibit No. 1059, at the same time. Correct?

21 A. That is correct.

22 Q. And it says that is for the Oklahoma explosion. Right?

23 A. It does.

24 Q. \$2,500 Right?

25 A. Correct.

1 Q. And these documents were actually -- This one, No. 1059  
2 was in the Holy Land files. That is where you found that one?

3 A. That is correct.

4 Q. And actually, you also know that a number of people flew  
5 to Oklahoma City to actually help out there. Correct?

6 A. That is correct.

7 Q. Okay. And we can -- You have subpoenaed from American  
8 Express their records, Defendants' Exhibit No. 1055 as part of  
9 your American Express records. Right?

10 A. That is correct.

11 Q. And that showed -- For example, on this page it shows  
12 Airport Express, some kind of a taxi service in Oklahoma City.  
13 Correct? Do you see that?

14 A. That is what it says, yes.

15 Q. And you see at the bottom it has a number of -- It says  
16 Delta Airlines.

17 A. I see that.

18 THE COURT: Ms. Hollander, did you want that -- I  
19 don't show that as in evidence.

20 MS. HOLLANDER: I think I said it wrong. It is No.  
21 1055.

22 THE COURT: I don't show that, but I show no  
23 objection from the Government so that is admitted, just so you  
24 know.

25 MS. HOLLANDER: Thank you. I thought I included

1       that.

2               THE COURT:   You may have, but I don't show it.

3               MS. HOLLANDER:   But it is admitted now?

4               THE COURT:   Yes, it is admitted now.

5               MS. HOLLANDER:   Thank you.   I am sorry.

6       Q.     (BY MS. HOLLANDER)   So this shows plane tickets?

7       A.     That is right.

8       Q.     And you know a large number of people went to Oklahoma  
9       City from Holy Land.

10      A.     I believe that if you look through the bill, the HLF flew  
11      a number of people up there.

12      Q.     So if we look at this one, the next page, these are all  
13      tickets, aren't they, on Delta?

14      A.     Correct.

15      Q.     And if I tell you that I counted up a total of 39 on that  
16      page, and I think 7 or 8 or 9 on the other page, does that  
17      look about right?

18      A.     I did not count them, but I know there were a large  
19      number of them.

20      Q.     And actually Mr. El-Mezain went to Oklahoma.   Right?   M.  
21      El-Mezain.   Do you see that?

22      A.     I do.

23      Q.     And you see over here where it says G. Ashi.   That is  
24      Ghassan Elashi.   Correct?

25      A.     That is correct.

1 Q. I believe, if we find another, that Shukri went also.

2 Right? Do you see this one also?

3 A. That is correct.

4 Q. Now, they went there to assist with a number of -- some  
5 of the charitable work that was going on in Oklahoma.

6 Correct?

7 A. I believe so.

8 Q. Well, actually you know that is what they did, don't you?

9 A. That is correct.

10 Q. And also as part of Defendants' No. 119, one of the  
11 letters they received was a thank you note from the Feed the  
12 Children organization. Correct?

13 A. I believe so. On that one, I haven't seen that one in a  
14 while, so.

15 Q. This will refresh your recollection. Do you remember  
16 this one? Can you read what that says at the top?

17 A. "Feed the Children, Larry Jones, International  
18 Ministries, May 8th, 1995."

19 Q. And can you read just the body of the letter, please.

20 A. It says, "Dear Mohammad, I want to thank you for bringing  
21 a number of your colleagues to Oklahoma City during a time of  
22 great crisis and grieving. We appreciate you coming and  
23 helping us at Feed the Children.

24 "It was a great disservice to you and your people when  
25 word was first announced that it was possibly someone from the

1 Middle East who had bombed the federal building. As you know,  
2 we Americans are sometimes too quick to judge. Forgive us!

3 "If we can further work together on different projects  
4 please give feed the children a call. Our world has become a  
5 very small place to live, and life is too short to entertain  
6 judgment on groups whether it be from an ethnic, political,  
7 religious, or racial point of view.

8 "May we work together to make no only the world a better  
9 place...but a safe place.

10 Q. And it is signed?

11 A. "For the children, Larry. Larry Jones."

12 Q. And that is the Larry Jones presumably who runs this  
13 organization?

14 A. I would presume.

15 Q. Holy Land made videos of many of its fundraising  
16 activities, didn't it?

17 A. It did.

18 Q. And you found many of those in the Holy Land files,  
19 didn't you?

20 A. There were a large number of video and audiotapes.

21 Q. And some of them were in Arabic and some of them were in  
22 English. Correct?

23 A. That is correct.

24 Q. That is two questions. Some were in Arabic. Correct?

25 A. Yes.



1 Q. And some were in English.

2 A. Yes.

3 Q. And the ones in English, like the ones Mr. Westfall  
4 showed the other day.

5 A. That is correct.

6 Q. Right. And there was actually one made of the people who  
7 went from Holy Land to Oklahoma City after the explosion,  
8 wasn't there?

9 A. I recall seeing one.

10 Q. Okay.

11 MS. HOLLANDER: May I approach, Your Honor?

12 THE COURT: Yes.

13 MS. HOLLANDER: Or do you want to wait on it?

14 THE COURT: Go ahead and get it identified, and we  
15 will play it after the break.

16 Q. (BY MS. HOLLANDER) I have shown you what has been marked  
17 as Defense Exhibit No. 894. And you have previously reviewed  
18 this particular tape, haven't you?

19 A. That is correct.

20 Q. In fact, it has a notation you made on it, doesn't it?

21 A. It was from 2002, six years ago.

22 Q. And then you reviewed it again?

23 A. You guys showed it to me today.

24 Q. Right. And this is one of the tapes that Holy Land made,  
25 and you could identify Holy Land people in the tape. Correct?

1 I mean, you could identify people wearing Holy Land shirts.

2 A. Correct. I saw people with the Holy Land T-shirts on in  
3 the video.

4 Q. And you saw the date stamp of April 23rd, 1995. Correct?

5 A. I can't remember the exact date on the stamp, but it was  
6 date stamped and it was from April of '95.

7 Q. And that was consistent with when the people from Holy  
8 Land went from Dallas to Oklahoma to assist there. Correct?

9 A. It was consistent.

10 Q. Right. And in fact, you saw a picture of the Murrah  
11 building on that tape.

12 A. Correct.

13 MS. HOLLANDER: Your Honor, at this time we move  
14 Defense Exhibit No. 894, and we will exchange this for a DVD  
15 that the jury can actually look at.

16 THE COURT: All right. That was admitted this  
17 morning, so No. 894 is in evidence.

18 MS. HOLLANDER: Right. So we will just want to play  
19 a little bit of it.

20 THE COURT: Let's go ahead and take the break and we  
21 will come back and watch it. Be back at 4:15.

22 (Whereupon, the jury left the courtroom.)

23 THE COURT: So you are ready to play the excerpt?

24 MS. HOLLANDER: I think taking the break now means  
25 we can set it up and get it ready to go.

1 THE COURT: Be back at 4:15.

2 (Brief Recess.)

3 MS. HOLLANDER: Your Honor, at this time we would  
4 like to play the short clip of the video. I think Mr.  
5 Westfall will assist me with that.

6 THE COURT: All right. You may do so.

7 MS. HOLLANDER: And we are playing this without  
8 sound, Your Honor.

9 THE COURT: All right.

10 (Whereupon, Defense Exhibit No. 894 was played,  
11 while questions were propounded.)

12 Q. (BY MS. HOLLANDER) This is the video that you reviewed.  
13 I just want to make sure. Right?

14 A. That is right.

15 Q. When the Holy Land people went to Oklahoma in 1995.  
16 Correct?

17 A. I believe that is what this is from.

18 Q. Okay. Does that appear to be a picture of some kind of  
19 basic necessities?

20 A. I believe that these are the items they are putting in  
21 the boxes.

22 Q. That they are putting in the boxes. And do you know  
23 whether this was part of Feed the Children, or was this some  
24 other work they were doing? Do you know?

25 A. I don't know.

1 Q. You don't know.

2 Is that a Holy Land T-shirt that he is wearing? Is that  
3 the Holy Land logo that you can identify?

4 A. It is.

5 Q. Okay. And you can identify that. Correct?

6 A. It looks like the Murrah building.

7 Q. Okay. There was one person at the very end with a Holy  
8 Land sign on it. Could you see who that was?

9 A. I couldn't.

10 Q. You couldn't tell who that was?

11 A. No.

12 Q. Okay. Thank you.

13 MS. HOLLANDER: That is the end of that video.  
14 Thank you.

15 THE COURT: All right.

16 Q. (BY MS. HOLLANDER) Now, Agent Burns, I want to ask you  
17 about a few other things.

18 MS. HOLLANDER: And Your Honor, I believe these are  
19 in evidence also, Defendants' No. 162, 175, 140, 161, those  
20 for sure. Those are my next group. And I am not sure about  
21 No. 177.

22 THE COURT: I show No. 140 at least there is no  
23 objection. No. 161 is in. No. 162 there is no objection so  
24 that is admitted. And No. 175 there is no objection so those  
25 are all admitted.

1 Q. (BY MS. HOLLANDER) Let's get that far, then. Now, in  
2 addition to going to Oklahoma, Holy Land also provided relief  
3 in north Texas, and you have seen this --

4 MR. JACKS: Judge, I object to the form. It is not  
5 even a question. I object to the statement, and I just ask  
6 for a question and answer.

7 THE COURT: Sustained. Do you want to rephrase?

8 Q. (BY MS. HOLLANDER) Holy Land provided relief in north  
9 Texas in 2000. Correct?

10 A. Based on the documentation that I have seen from the  
11 search warrant material, they did.

12 Q. This appears to be from the American Red Cross. Correct?

13 A. Correct.

14 Q. And it was a \$10,000 contribution. Correct?

15 A. Correct.

16 Q. And you are aware in 1999 there were tornados in Oklahoma  
17 and Holy Land assisted there. Were you aware of that? Should  
18 I refresh your recollection?

19 A. Please. Let's look at it.

20 Q. Let's look at D-175. That is a document, a certificate  
21 of appreciation to Holy Land for assistance in the tornados.  
22 Correct?

23 A. That is correct.

24 Q. And let me show you Defendants' Exhibit No. 140. It is  
25 from the Associated Catholic Charities. Correct?

1 A. Correct.

2 Q. And that is again for emergency essential supplies and  
3 items for tornado victims. Correct?

4 A. Correct.

5 Q. In 1999. Correct?

6 A. Correct.

7 Q. And actually, it has the envelope from the Catholic  
8 charities. You found that envelope with it. Correct?

9 A. It was with it.

10 Q. Defendants' Exhibit No. 161, I would like you to read  
11 this one. It is not very long. Can you see that, or do I  
12 need to make it bigger for you? I can make it bigger.

13 A. I think I can make it out.

14 Q. Actually I can give you one.

15 MS. HOLLANDER: May I approach?

16 THE COURT: Yes.

17 Q. (BY MS. HOLLANDER) If you would just read that, please?

18 A. It is entitled "The City of San Diego, Proclamation, Holy  
19 Land Foundation for Relief and Development Day.

20 "Whereas, the Holy Land Foundation for Relief and  
21 Development headquartered in Richardson, Texas, is a  
22 non-profit and non-political humanitarian aid and disaster  
23 relief organization which provides support to those in need  
24 throughout the world and

25 "Whereas, the Holy Land Foundation for Relief and

1 Development is dedicated to find practical solutions for human  
2 suffering through humanitarian programs; and

3 "Whereas, the Holy Land Foundation for Relief and  
4 Development responds to both natural and manmade disasters  
5 throughout the world; and

6 "Whereas, their work has taken them to camps in Jordan,  
7 Lebanon, and Palestine, as well as tragedies in Bosnia,  
8 Kosovo, Turkey; and

9 "Whereas, they have also done work here at home by  
10 responding to floods in Iowa, the tornados in Oklahoma and  
11 Texas, and the devastation of the Murrah Federal Building in  
12 Oklahoma City; and

13 "Whereas, on July 16th, 2000 the local chapter of Holy  
14 Land Foundation for Relief and Development will be hosting a  
15 benefit to aid displaced children worldwide;

16 "Now, therefore, I, Susan Golding, the 32nd mayor of the  
17 City of San Diego, do hereby proclaim July 16th, 2000 to be  
18 Holy Land Foundation for Relief and Development Day in San  
19 Diego, in recognition of their tireless dedication and  
20 outstanding humanitarian effort to aid those in need  
21 throughout the world.

22 "In witness hereof, I have hereunto set my hand this day,  
23 and have caused the seal to be affixed hereto.

24 "Susan Golding, Mayor, July 16, 2000."

25 Q. That is from the City of San Diego?

1 A. That is correct. I don't recall having seen this before.

2 Q. And it looks like there was a seal on here on the  
3 original. Correct? You can see it.

4 A. That is what it looks like, but I didn't see the original  
5 so I don't know.

6 Q. Now, I want to talk a little bit and ask you some  
7 questions about humanitarian work that Holy Land provided  
8 outside the U.S., but for the moment outside Palestine. Is  
9 that okay?

10 A. Okay.

11 Q. We will get back to Palestine later. You are going to  
12 come back to talk about that later. Correct?

13 A. Yes, that is correct.

14 MS. HOLLANDER: Your Honor, can I ask you about five  
15 more and see if they are admitted?

16 THE COURT: Yes.

17 MS. HOLLANDER: No. 177, 169, 946, 170, and 954.

18 THE COURT: 169, 170 and 177, I don't show they are  
19 in, but the Government stated there is no objection so they  
20 are admitted. And the Government states they don't have an  
21 objection to the others, so those exhibits are admitted.

22 Q. (BY MS. HOLLANDER) So let me start with Kosovo. You are  
23 aware that there was a huge humanitarian crisis in the country  
24 of Kosovo in the 1990s as a result of the war there.

25 A. I know that there was a need for humanitarian aid in that



1 region.

2 Q. And you know that the United States attempted to support  
3 the Kosovars at that time also, don't you?

4 A. I don't have a lot of personal knowledge about that.

5 Q. Okay. Well, let me draw your attention to Defendants'  
6 Exhibit No. 177. And this is a document from where?

7 A. Care International.

8 Q. And would you read it, please? Let me ask you, it says  
9 "Dear, Dalell." Do you know a Dalell in relationship to Holy  
10 Land?

11 A. That would be Dalell Mohmed that we spoke about with Mr.  
12 Westfall.

13 Q. And she worked for Holy Land as a field worker in the  
14 field. Correct?

15 A. I can't remember what her title was; but yes, she did  
16 work for the Holy Land Foundation, and she did travel abroad  
17 for them.

18 Q. And so would you just read this letter, please?

19 A. And I think you need to move it to the left just a bit.

20 It says, "Dear Dalell, it has been our pleasure to have  
21 worked with the Holy Land Foundation for Relief and  
22 Development during this unfathomable crisis that the Kosovar's  
23 have endured. Through your efforts we were able to meet their  
24 needs and work towards a humanitarian solution providing  
25 comfort along the way. I look forward to working with the

1 Holy Land Foundation in the future."

2 Q. And it is signed by someone that we can't read. Is that  
3 correct?

4 A. I can't read it.

5 Q. Okay. But it appears -- the original to have been  
6 signed.

7 A. It does.

8 Q. Now, let me also draw your attention, are you familiar  
9 with the organization called Samaritan's Purse?

10 A. I have heard it, but I don't know a lot about it.

11 Q. Let me draw your attention to Defendants' Exhibit  
12 No. 169. And let's look at the top first. Who is this letter  
13 from at the top, the heading?

14 A. It is on Samaritan's Purse letterhead.

15 Q. Does it say who the president is, if you will read that.  
16 It says, "Franklin Graham, President"?

17 A. I can read that, yes.

18 Q. Okay. Are you aware that Franklin Graham is the reverend  
19 Billy Graham's son?

20 A. I don't know.

21 Q. Okay. Now, Samaritan's Purse is not an Islamic  
22 organization, is it?

23 A. I don't know enough about the organization to say whether  
24 they are or not.

25 Q. Now, Mr. Westfall discussed with you the bakery the other

1 day and you looked at some pictures of the bakery. Correct?

2 A. Correct.

3 Q. And I would like you to just look at, rather than read  
4 the whole letter, just this paragraph, "I would also like to  
5 thank you."

6 A. "I would also like to thank you for the donation of the  
7 bakery. I am pleased that Samaritan's Purse was able to move  
8 the bakery from Albania to Kosovo where it was set up in an  
9 8,000 foot warehouse. It is now producing approximately 4,000  
10 loaves of bread per day which is being distributed freely to  
11 people in five kiosks in the Gjakove city. Each person is  
12 allowed three loaves."

13 Q. Thank you. You already talked about Dalell, and  
14 Defendants' Exhibit No. 490 was introduced. And that is  
15 Dalell there. Correct?

16 A. That is correct.

17 Q. You recognize her. And this young man in the middle has  
18 a Holy Land something on there. Correct?

19 A. That is correct.

20 Q. And these appear -- This appears to be the shelves from  
21 the bakery. Correct?

22 A. That is correct.

23 MS. HOLLANDER: May I approach, Your Honor, to ask  
24 about a photograph?

25 THE COURT: Yes.

1 Q. (BY MS. HOLLANDER) Defendants' Exhibit No. 474 is a  
2 photograph and that came from the Holy Land search. Correct?

3 A. It did.

4 Q. And you can identify that it is something to do with Holy  
5 Land, can't you?

6 A. There is a Holy Land sign on it.

7 MS. HOLLANDER: Your Honor, I move Defendants'  
8 Exhibit No. 474.

9 THE COURT: Counsel?

10 MR. JONAS: Same objection.

11 THE COURT: Same previous objection. That has been  
12 overruled, and this exhibit is admitted.

13 Q. (BY MS. HOLLANDER) And that is a little more about the  
14 Kosovo situation. Correct? Just a photograph that says,  
15 "Kosovo Relief, Holy Land." Correct?

16 A. That is what it says.

17 Q. And you found this in Holy Land?

18 A. That is correct.

19 Q. Holy Land had a lot of photographs, didn't they?

20 A. They did.

21 MS. HOLLANDER: Your Honor, has No. 744 been  
22 admitted or do I need to show that to you.

23 THE COURT: No. 744?

24 MS. HOLLANDER: Yes.

25 THE COURT: No.

1 MS. HOLLANDER: I need to show that one to her,  
2 then. May I approach?

3 THE COURT: Yes.

4 MS. HOLLANDER: Thank you.

5 Q. (BY MS. HOLLANDER) No. 744, another photograph that you  
6 seized from in the search warrant for Holy Land?

7 A. That is correct.

8 Q. And it also has identifying marks that say Holy Land on  
9 it?

10 A. It does.

11 Q. And Kosovo?

12 A. That is correct.

13 MS. HOLLANDER: Your Honor, I move Defendants'  
14 Exhibit No. 744.

15 THE COURT: Same objection?

16 MR. JONAS: Yes, sir.

17 THE COURT: That is overruled, and No. 744 is  
18 admitted.

19 Q. (BY MS. HOLLANDER) What does this say on it, Agent  
20 Burns?

21 A. It says, "Holy Land Foundation for Relief and  
22 Development, a gift from Kosova Relief Committee in  
23 Minnesota."

24 Q. Do you know what the Kosova Relief Committee in Minnesota  
25 is?

1 A. No.

2 Q. I think I just asked you about No. 946. Yeah, I did.  
3 Okay.

4 Now, there was also an earthquake in Turkey in 1999. Do  
5 you recall that?

6 A. Yes.

7 Q. And you know that Holy Land was involved in relief  
8 efforts in Turkey, too. Correct?

9 A. That is correct.

10 Q. Let me direct your attention to Defendants' Exhibit  
11 No. 946. What organization is this?

12 A. The International Blue Crescent.

13 Q. Is that kind of like the Red Cross in other countries?

14 A. I think it provides similar types of relief.

15 Q. It is a charity?

16 A. It is.

17 Q. Okay. And this is a receipt, is it not, or an invoice?

18 A. It looks like it.

19 Q. And it says for hot meals distributed in some city that I  
20 can't read the name of.

21 A. That is what it says.

22 Q. And it is 40,250 -- \$40,000 U.S. dollars. Correct?

23 A. It looks like it.

24 Q. \$40,250 U.S. dollars, to be exact. Correct?

25 A. Correct.

1 Q. And the second page of that is from Holy Land. Correct?  
2 On Holy Land letterhead?

3 A. It is.

4 Q. And it says, "Beneficiary: International Blue Crescent."  
5 Correct?

6 A. Correct.

7 Q. And again, it has the same amount--\$40,250?

8 A. It does.

9 Q. And it says for hot meal distribution in a town that  
10 starts with the letter G?

11 A. It does.

12 Q. Do you know what town that is?

13 A. I don't.

14 Q. Just briefly, Defendants' Exhibit No. 170, that is also  
15 from the International Blue Crescent?

16 A. Correct.

17 Q. And that is -- I don't think we need to read it, but it  
18 is another letter thanking Holy Land for their humanitarian  
19 help at that same time in 1999. Correct?

20 A. That is correct.

21 Q. Now, there was also -- Let's see.

22 MS. HOLLANDER: Your Honor, Defendants' Exhibit  
23 No. 174? I don't believe that one has been admitted yet.

24 THE COURT: It has not been admitted. And I think  
25 that is the one we still have not resolved.

1 MS. HOLLANDER: Right.

2 THE COURT: It is not in.

3 MS. HOLLANDER: Okay. There are two others I asked  
4 about, No. 1336 and 1337. The same situation with those?

5 THE COURT: I think that is right. Yes. Frankly, I  
6 tried to find them on the disk that you all had given me. My  
7 computer was not showing those, so I have not been able to see  
8 those. I may need to get copies of those from you.

9 MS. HOLLANDER: Could we just approach on those  
10 three, Your Honor?

11 THE COURT: Sure.

12 (The following was had outside the hearing of the  
13 jury.)

14 MS. HOLLANDER: This is No. 1336. It is an extra  
15 copy actually, and this is No. 1337.

16 MS. DUNCAN: Those two, Your Honor, were included on  
17 the supplemental disks.

18 THE COURT: I put them on the computer, but for some  
19 reason I was getting a blank screen.

20 MS. DUNCAN: And I emailed the corrected files to  
21 Mr. Jacks and Jennifer.

22 MS. HOLLANDER: Your Honor, all of these are, as I  
23 explained, we got from Agent Burns during the civil case, and  
24 the Government is the ones that are going to have to be able  
25 to find them. We went through this last week, and my memory



1 from you was it was up to them to find them. And, I mean,  
2 there is no question that they came from the HLF search  
3 warrant.

4 MR. JACKS: I remember the discussion about the San  
5 Diego thing, and she just said she doesn't remember seeing  
6 that.

7 MS. HOLLANDER: That is different from these. That  
8 one doesn't have the FBI stamp on them.

9 MR. JACKS: And they don't have the bates number.

10 MS. HOLLANDER: But that one doesn't even have an  
11 FBI stamp. These have the FBI stamp.

12 MR. JACKS: Your Honor, an FBI stamp. So to look  
13 for it this does us no good to look for it. We have to look  
14 for it under the FBI bates stamp. So that is what is taking  
15 so long.

16 MS. HOLLANDER: Here is my concern, Your Honor.  
17 When the opposite party has the original, then generally a  
18 reliable copy should come into evidence, and Mr. Jacks knows  
19 that the way we got these was that my office came over and met  
20 with Agent Burns.

21 THE COURT: We have been over that. I understand.

22 MS. HOLLANDER: So I ask the Court to introduce  
23 these two --

24 MR. JACKS: The problem, Your Honor, is it is just  
25 going to the copies that the Government gave them with the

1 Government's bates stamp. For some reason they go to these  
2 earlier copies and start using those instead of the ones that  
3 the Government --

4 THE COURT: That have the Government numbers on  
5 them. Can you find those?

6 MS. HOLLANDER: Your Honor, I don't think you  
7 understand how hard it is to find anything.

8 THE COURT: Apparently they are having the same  
9 problem. I don't want to spend anymore time with the jury. I  
10 will get back with these later. Go ahead and keep going. We  
11 will just have to do it at another time or when she comes  
12 back. I don't want to take anymore time keeping this jury  
13 here waiting.

14 (The following was had in the presence and hearing  
15 of the jury.)

16 MS. HOLLANDER: Let me ask you, Your Honor, about  
17 No. 954, I believe. Is that one in evidence?

18 THE COURT: Let me take a look. Yes. No. 954 is  
19 in.

20 MS. HOLLANDER: Thank you.

21 Q. (BY MS. HOLLANDER) Now, there is a country of Georgia.  
22 I am not talking about the state of Georgia, but the country  
23 of Georgia that is next to Russia. Are you aware of that?

24 MR. JACKS: I object to the statement.

25 THE COURT: She may ask her, if she knows.

1 THE WITNESS: What was the question?

2 Q. (BY MS. HOLLANDER) I am trying to direct your attention  
3 to the country of Georgia and not the state of Georgia. You  
4 know there is a country called Georgia. Correct?

5 A. That is correct.

6 Q. And it has been in the news recently. Correct?

7 A. That is correct.

8 Q. Okay. Now, in 2001 HLF provided assistance to the  
9 country of Georgia. Do you recall that, or do I need to  
10 refresh your recollection?

11 A. Let's look at it.

12 Q. Okay. Defendants' No. 954. And who is this from? Can  
13 you read that?

14 A. It says "United Nations High Commissioner for Refugees  
15 Office in Georgia."

16 Q. And that is the United Nations organization that assists  
17 refugees; just what it says. Correct?

18 A. Correct.

19 Q. And who is the letter addressed to?

20 A. It says, "Dear, Mr. Elashi." And "Ghassan" is  
21 handwritten above it.

22 Q. And it is pretty short. Could you read that letter,  
23 please?

24 A. It says, "The United Nations High Commissioner for  
25 Refugees would like to extend its most sincere thanks to Holy

1 Land Foundation for the contribution to the assistance of the  
2 local population in the Pankisi Gorge.

3 "We would also like to take this opportunity to  
4 acknowledge the good work of both Ms. Maia Samadashvili" --

5 Q. I think you can skip the names.

6 A. Okay. "...without whom this operation wouldn't have had  
7 such a high level of success."

8 "UNHCR has distributed the total of your donation  
9 amounting to 150,000 kilograms of wheat flour, 24,000  
10 kilograms of beans, 11,060 liters of vegetable oil, and 8,050  
11 kilograms of sugar. With your generosity donation,  
12 approximately 6,000 local individuals were assisted.

13 Sincerely."

14 Q. Somebody.

15 A. Someone as the program officer.

16 Q. And this was dated 25 July, 2001. Correct?

17 A. That is correct.

18 Q. Now, you are also aware, are you not that Holy Land had  
19 projects distributing wheelchairs. Correct?

20 A. I have seen documentation indicating that they purchased  
21 wheelchairs.

22 Q. Okay.

23 MS. HOLLANDER: May I approach, Your Honor?

24 THE COURT: Yes.

25 Q. (BY MS. HOLLANDER) Let me ask you as to Defendants'

1 Exhibit No. 404, 505, 506, and 544, were these all seized from  
2 the Holy Land office?

3 A. Are those the numbers of the ones we just looked at?

4 Q. Yes.

5 A. Yes, they are.

6 Q. And they have your bates number where the FBI stamped  
7 them. Is that correct?

8 A. That is correct.

9 Q. And each one of them has the Holy Land logo that you can  
10 see on each one. Correct?

11 A. It does.

12 MS. HOLLANDER: Your Honor, I move the admission of  
13 Defendants' 404, 505, 506, and 544.

14 THE COURT: Same objection as previous?

15 MR. JONAS: Yes, sir.

16 THE COURT: And those objections are overruled. The  
17 exhibits are admitted.

18 Q. (BY MS. HOLLANDER) This is No. 404. You said that you  
19 saw evidence of Holy Land providing wheelchairs, buying  
20 wheelchairs to provide for people. Correct?

21 A. I said I had seen evidence of the wheelchairs.  
22 Specifically, I was recalling these pictures that you had  
23 shown us.

24 Q. And this one says -- And there is a Holy Land logo on it,  
25 is there not?

1 A. If you look behind the individuals, that banner includes  
2 the Holy Land symbol and also the name of the Holy Land  
3 Foundation.

4 Q. And it also says -- Can you read what it says here,  
5 "Donated by"?

6 A. I believe it says "World Wheelchair Foundation."

7 Q. And let me show you Defendants' Exhibit No. 505. What is  
8 that a picture of?

9 A. A wheelchair with the HLF logo on it.

10 Q. Defendants No. 506, what does that depict?

11 A. Wheelchairs with the HLF logo.

12 Q. And finally Defendants No. 544?

13 A. It is also of a wheelchair with the HLF logo.

14 Q. There appears to have somebody in it who has just  
15 received it. Correct?

16 A. It has someone in it. I don't know if they received it  
17 or not. I am assuming they did because he is in it, but I  
18 don't know anything beyond what you see.

19 Q. Okay. Thank you.

20 MS. HOLLANDER: Pass the witness, Your Honor.

21 THE COURT: Mr. Dratel?

22 MR. DRATEL: Yes, sir.

23 CROSS EXAMINATION

24 By Mr. Dratel:

25 Q. Good afternoon.

1 A. Good afternoon.

2 Q. I just want to draw your attention first to the wiretap  
3 that you had in this case on Mr. El-Mezain.

4 A. Okay.

5 Q. And it began in the latter part of '94, I think August  
6 '94. Does that sound correct?

7 A. It was sometime around there.

8 Q. And it continued until sometime maybe November  
9 of -- Withdrawn. Until November 2003?

10 A. I think that is approximately the right date.

11 Q. Okay. And you said there were 9,600 summaries that you  
12 read in the course of the entire wiretap.

13 A. I think that is about accurate.

14 Q. Okay. And that is not all the conversations that were  
15 recorded in the case.

16 A. That is correct.

17 Q. And with respect to the summaries, some are a couple of  
18 lines, a paragraph maybe, and others can be longer?

19 A. That is true.

20 Q. So there may be more than one summary on a page?

21 A. Especially in the older summaries you may see more than  
22 one call summarized on each page.

23 Q. And some summaries may be longer than a page?

24 A. That is correct.

25 Q. And with respect to Mr. El-Mezain, just with respect to

1 Mr. El-Mezain and the conversations intercepted on his phone,  
2 the number of summary pages is more than 7,000 pages.

3 A. I couldn't tell you that specifically. I haven't counted  
4 the pages.

5 Q. It is thousands, though. Correct?

6 A. There is a large number.

7 Q. Well, did you testify previously that it was thousands?

8 A. Thousands is probably a good approximation.

9 Q. And that is just for Mr. El-Mezain alone.

10 A. Yes, that is.

11 Q. Now, when you -- With respect to a wiretap like the one  
12 that was conducted in this case, isn't it true that you want  
13 to have a broad sense of what is pertinent--and we will use  
14 the term pertinent now and explain it, but pertinent is a term  
15 of art--you want to have a broad sense of what is pertinent?

16 A. Are you talking about while --

17 Q. While the wiretap is ongoing.

18 A. I did not administer this wiretap. As you know, I was  
19 not involved in that. So if you are asking about the  
20 parameters that they used, I don't know. I, in fact, have not  
21 administered a FISA wiretap.

22 Q. It went on until 2003 for Mr. El-Mezain. Correct?

23 A. That is correct. But that was out of the San Diego  
24 office.

25 Q. And you were already on the investigation by that point.



1 A. I was in Dallas on the criminal investigation.

2 Q. And you can go back and see whether there were specific  
3 calls on specific dates. Right? You can instruct the  
4 language specialist to check on a specific date to see if  
5 there are conversations?

6 A. That is correct.

7 Q. And you would want -- When the language specialist does  
8 that, you would want him to take sort of a broad view of  
9 pertinent, meaning meaningful, conversations to report back to  
10 you?

11 A. If I were asking him to look at conversations on a  
12 certain date, he would be looking for something specific, so I  
13 would give him instructions of what to look for on that date,  
14 if I knew what I was focusing on.

15 Q. But you would want him to be overinclusive rather than  
16 underinclusive, so as not to miss a meaningful call.

17 A. Certainly if I were wanting him to look for something, I  
18 would want him to let me know if he found it.

19 Q. Okay. Now, with respect to Mr. El-Mezain, he arrived in  
20 the United States in 1983.

21 A. That is correct.

22 Q. He already had his Bachelor's degree from a university in  
23 Egypt.

24 MR. JONAS: Your Honor, I am going to object. There  
25 is no question. It is just a statement there.

1 THE COURT: He is asking if she knows. Go ahead.

2 THE WITNESS: It is my understanding that he went to  
3 school in Egypt and received a degree. I am not sure if they  
4 actually give Bachelor's degrees over there. But before he  
5 came here he went to school in Egypt.

6 Q. (BY MR. DRATEL) When he first arrived here he lived in  
7 Colorado?

8 A. That is correct.

9 Q. And he attended Colorado State University?

10 A. If that is the one in Fort Collins, I believe. I know he  
11 lived in Fort Collins. I can't remember which Colorado  
12 university is there.

13 Q. But it was in Fort Collins?

14 A. That is correct.

15 Q. And he obtained his Master's degree from that institution  
16 in Fort Collins?

17 A. I am not aware if he obtained his Master's degree or not.  
18 He may have. I know he went to school there, but I am not  
19 sure what level of education he achieved at that institution.

20 MR. DRATEL: May I approach, Your Honor, to refresh?

21 THE COURT: Yes.

22 Q. (BY MR. DRATEL) So you believe that is correct?

23 A. I believe it is correct, but I am not sure.

24 Q. Okay. And in 1989 he moved from Colorado to New Jersey.

25 A. Approximately that date.

1 Q. And that is Paterson, New Jersey.

2 A. That is correct.

3 Q. And in 1999, ten years later, he moved from Paterson, New  
4 Jersey to San Diego, California?

5 A. Correct.

6 Q. And both times with his family?

7 A. Yes.

8 Q. And with his children from Colorado to New Jersey, and  
9 then with more children from Paterson to San Diego?

10 A. I can't remember the ages of his children. He did move  
11 with his family, I don't know how many he had when he left  
12 Fort Collins.

13 Q. But he has a lot of children?

14 A. He has several. I am not sure how many.

15 Q. And while he was in New Jersey, is it correct he was the  
16 emam of the Islamic Center of Passaic County?

17 A. That is correct.

18 Q. And Paterson is in Passaic County?

19 A. I believe so.

20 Q. And he was also the director of financial resource  
21 development for the Islamic Education Center?

22 A. I know he worked for the Islamic Education Center. That  
23 may have been his title. I can't recall right now what his  
24 title was.

25 Q. And that was in Paterson as well, in New Jersey?

1 A. I believe it was in Paterson as well.

2 Q. And is that a start-up entity at that time? In other  
3 words, the Islamic Education Center in Paterson, was that a  
4 start-up project at the time? In other words, was it just  
5 beginning and he was trying to raise money for it?

6 A. I am not sure if it was a start-up or not.

7 Q. Okay. And with respect to Holy Land Foundation, Mr.  
8 El-Mezain was not involved in the day-to-day administrative  
9 aspects in Dallas, was he?

10 A. In Dallas?

11 Q. Yes.

12 A. No, he was not in Dallas.

13 Q. Right. And he also did volunteer work for organizations  
14 like MAYA, which you have talked about. Right?

15 A. That is correct.

16 Q. And for other Islamic organizations around the country?

17 A. I believe that he did.

18 Q. I want to draw your attention to what we will call the  
19 documents seized in the search of Ismail Elbarasse.

20 A. Okay.

21 Q. And those were seized in 2005.

22 A. I believe the Elbarasse search was in 2004. It may have  
23 been 2005, but I think it was 2004.

24 Q. Okay. You have put a number of those documents in  
25 evidence through your direct testimony. Correct?

1 A. That is correct.

2 Q. And some of those documents are handwritten?

3 A. Yes, they are.

4 Q. Some of those documents do not have an author. Correct?

5 A. That is correct.

6 Q. Now, with respect to those documents, you didn't find any  
7 documents that established that those documents were  
8 communicated to any of the Defendants in this case. Correct?

9 A. Well, when you look at the context --

10 Q. I just want to know -- I will be more precise. Did you  
11 find any fax cover sheets to any of the Defendants with those  
12 documents?

13 A. Fax cover sheets?

14 Q. Yes.

15 A. I don't recall if there were any or not. I didn't look  
16 for fax cover sheets.

17 Q. Did you find any FedEx receipts?

18 A. I don't even know if I looked for FedEx receipts.

19 Q. Any Express Mail receipts?

20 A. I don't recall if I looked for Express Mail receipts, but  
21 I probably didn't. There may have been some, but I don't  
22 recall seeing any.

23 Q. Did you check any FedEx accounts for any of the  
24 Defendants, or anyone else, to see if the Defendants were ever  
25 sent any of these documents?

1 A. No.

2 Q. Now, I want to draw your attention to the telephone  
3 conversations involving Mr. El-Mezain that you put in evidence  
4 on your direct examination.

5 A. Okay.

6 Q. And just to reorient, the specially designated terrorist  
7 designation for Hamas was January 23rd, 1995.

8 A. Correct.

9 Q. And the foreign terrorist organization designation was  
10 October 8th, 1997.

11 A. Correct.

12 Q. And with respect to Count 1 of the indictment, the only  
13 one that applies, is the October 8th, 1997 designation date.  
14 Correct?

15 A. That is correct.

16 Q. And that is the only count that Mr. El-Mezain is charged  
17 with. Correct?

18 A. That is correct.

19 Q. Now, with respect to the faxes, which is El-Mezain  
20 Wiretap No. 1, and you put those in evidence, it is a  
21 collection of about 150, 160 pages of faxes. Correct?

22 A. Correct.

23 Q. And if you need to check it, that is fine. I have it  
24 available for you. But the faxes that are in evidence begin  
25 September 19th, 1994 and go until June 28th, 1995. Is that

1 correct?

2 A. I know they were from '94 and '95. The exact days I am  
3 not sure. I have my copy if you want --

4 Q. That would be good. Thank you.

5 A. I just can't remember the exact date and month, but I  
6 know they were '94 and '95. I am sorry. What did you say was  
7 the beginning day? What were you asking me?

8 Q. September 19th, 1994 would be the first one.

9 A. That is the first date that I see.

10 Q. And the last one, June 28th, 1995?

11 A. Actually I think the last page is out of order and it is  
12 actually September 8th, 1995.

13 Q. Yes. Okay.

14 A. September 8th, 1994.

15 Q. Right. But if you go back a couple of pages, the last  
16 report that was faxed of the type that you read from on  
17 direct, is that --

18 A. June 28th, '95.

19 Q. Is that correct?

20 A. Yes, that is correct.

21 Q. So that is more than two years before October 8th, 1997.  
22 Right?

23 A. That is correct.

24 Q. Now, in terms of the conversations, do you have them up  
25 there with you?

1 A. Yes. They are not in order.

2 Q. I know. I will give you time. Don't worry. It is not a  
3 test. If you could look at El-Mezain Wiretap No. 2.

4 A. Okay. Sorry. I have a number of binders. I have one  
5 more to check and then I may have to ask for the original.

6 Q. Okay. I have them right here if you need them.

7 A. I found it.

8 Q. Okay. That is a conversation April 19th, 1995. Correct?

9 A. That is correct.

10 Q. And if you look at El-Mezain Wiretap No. 4.

11 A. It may be quicker if we go with the originals, just  
12 because mine are --

13 Q. Sure.

14 A. I have got five different binders here.

15 Q. Here. El-Mezain Wiretap No. 4.

16 A. Thank you.

17 Q. January 22nd, 1995?

18 A. That is correct.

19 Q. And that is a conversation where Mr. El-Mezain receives a  
20 call. Correct?

21 A. That is correct.

22 Q. Someone calls him to tell him about a suicide bombing.  
23 Right?

24 A. That is correct.

25 Q. And he receives that call.



1 A. You are right.

2 Q. Okay. If you could look at -- Well, let me give it to  
3 you.

4 A. Okay. It just may save time that way.

5 Q. That is fine. That is El-Mezain Wiretap No. 7.

6 A. Correct.

7 Q. And that one is from February 25th, 1996?

8 A. That is correct.

9 Q. And again, that is someone calling him about a suicide  
10 bombing?

11 A. Correct.

12 Q. And he receives that call. Right? He doesn't make that  
13 call. He receives that call.

14 A. Right.

15 Q. This is El-Mezain Wiretap No. 11. Right?

16 A. Yes.

17 Q. And that is from April 3rd, 1996. Correct?

18 A. That is correct.

19 Q. And if you will just hold onto that, because it gets a  
20 little more complicated at some point, but I want to go  
21 through these. El-Mezain Wiretap No. 13. And that is October  
22 24th, 1994. Correct?

23 A. Correct.

24 Q. And let me show you Shabib Wiretap No. 1. And that is a  
25 call involving Mr. El-Mezain. Correct? That was on someone

1 else's line--Muin Shabib?

2 A. That is correct.

3 Q. And there was a wiretap on Muin Shabib's phone at what  
4 time period?

5 A. '93, '94. I am not sure of the exact time period.

6 Q. 1993 there was also a wiretap on the phone of Mr. Ashqar.  
7 Correct?

8 A. That is correct.

9 Q. And in fact, also there was the search in December of '93  
10 of Mr. Ashqar's home.

11 A. That is correct.

12 Q. And that was two months after the Philadelphia meeting.

13 A. Two and a half maybe.

14 Q. Yes. And do you know what time the wiretap on Mr.  
15 Ashqar's phone, the length of time of the wiretap or the time  
16 period?

17 A. I don't. It wasn't -- I mean, it didn't extend past '94,  
18 '95, I believe.

19 Q. But it was before the Philadelphia meeting, I believe.

20 A. That is correct. Because he was the one who was the  
21 subject of the wiretap at the Philadelphia meeting.

22 Q. And you have introduced some of his conversations before  
23 the Philadelphia meeting.

24 A. That is correct.

25 Q. And the Shabib, do you have the date of that one?

1 A. I don't know the exact dates. Again, it was in '93, '94.

2 Q. But it says --

3 A. On the call, yes, it says 1993.

4 Q. But not a specific date?

5 A. Correct.

6 Q. Now, all of those conversations, we have one, just to  
7 recap April '95, January '95 -- No. 2 is El-Mezain Wiretap  
8 No. 2, April '95; No. 4, January '95; No. 7, February '96; No.  
9 1, April '96 -- I left out one. El-Mezain 12. Do you  
10 remember that? I have it here in case you don't remember that  
11 one.

12 A. Okay.

13 Q. And that is February 27th, 1995.

14 A. Correct.

15 Q. So that is February '95. And then No. 13 is October '94.  
16 And the Shabib 1 is 1993. And that is even -- The latest one  
17 of those is at least a year and a half before October 8th of  
18 1997.

19 A. That is correct.

20 Q. And many of them are even before January of '95.

21 A. That is correct.

22 Q. Now, you have a copy of El-Mezain Wiretap No. 11 there.  
23 Correct?

24 A. I do.

25 Q. Okay.

1 MR. DRATEL: May I approach, Your Honor?

2 THE COURT: Yes.

3 MR. DRATEL: I am just going to mark this so we know  
4 what we are doing here, Your Honor.

5 THE COURT: Okay.

6 MR. DRATEL: Now, Your Honor, this is one of the  
7 sessions we are in agreement on with the Government.

8 THE COURT: All right.

9 Q. (BY MR. DRATEL) This was -- You put this conversation in  
10 evidence. Correct?

11 A. Yes, we did.

12 Q. And you played some sections. Correct?

13 A. That is correct.

14 Q. And there was a section that you did not play, or at  
15 least one section?

16 A. At least one.

17 Q. Right. And the section we are going to read now includes  
18 some of the material that was in the Government exhibit  
19 section.

20 A. Okay.

21 Q. Correct? And if we could start where I have  
22 marked -- Let me just -- The participants are Shukri Abu Baker  
23 and Mr. El-Mezain. Correct?

24 A. That is correct. And at least one point Haitham Maghawri  
25 was on the phone.

1 Q. Right. But in this particular section he is not, if you  
2 could just look through these two and a half pages.

3 A. Yes, just Shukri Abu Baker and Mohammad El-Mezain.

4 Q. Right. And this is that conversation where Mr. Abu Baker  
5 is relating to Mr. El-Mezain Mr. Abu Baker's conversation with  
6 the reporter Gayle.

7 A. Okay.

8 Q. Does that reorient you?

9 A. Yes.

10 Q. And just to reorient the jury, rather than having to  
11 start all over again --

12 THE COURT: For the record, which exhibit number is  
13 this?

14 MR. DRATEL: This is El-Mezain Wiretap No. 11. And  
15 what I would like to do is designate the Defendants' portion  
16 of it, the part we are adding as Defendants' El-Mezain Wiretap  
17 No. 11.

18 THE COURT: All right.

19 MR. DRATEL: Thank you, Your Honor.

20 THE COURT: And that has been agreed to. Correct,  
21 counsel?

22 MR. JONAS: Yes, sir.

23 THE COURT: So that exhibit is admitted.

24 Q. (BY MR. DRATEL) Okay. So if you could play the part of  
25 Mr. Abu Baker in terms of reading, and I will read Mr.

1 El-Mezain's part.

2 A. Okay.

3 Q. And if you could start in the middle of that page where I  
4 have marked it off in the middle of that.

5 A. It says, "She is asking, 'Why was your policy in the  
6 beginning that you -- that you were with Hamas and stuff, and  
7 then lately just because there has been violence" --

8 Q. "She was saying this stuff?"

9 A. "Yes."

10 Q. "Tell her we have no publication or announcement that we  
11 are affiliated with any -- any --"

12 A. I told her, 'I challenge you' -- to start with, I told  
13 her, 'We don't have a connection with Hamas in the first  
14 place, no connection to discontinue. We -- I challenge you.  
15 All of our literature, printed materials, and our speeches  
16 during our fundraising, I challenge you to find that we one  
17 day stood up or wrote asking for donations for Hamas. I  
18 challenge you.' So she remained quiet. I told her, 'It is  
19 not that we started.'".

20 Q. "Tell her, what -- what -- what Hamas -- I mean, I mean,  
21 regarding donations to Hamas, at that time were not illegal.  
22 Also in truth, they are an honor to the entire Palestinian  
23 people in the first place."

24 A. "She said, 'Okay. You -- I mean, as long as they do good  
25 work and stuff, I mean, what is the problem?' I told her, 'I

1 personally visited the homeland three times. We give  
2 assistance to the parties which serve true assistance to the  
3 Palestinian people.' And by God, by God, she cited me an  
4 example of Jamil Hamami and told me, 'Isn't he so and so, and  
5 the one in charge of schools and stuff?' I told her, 'Yes.'  
6 I told her -- she said, 'Did you support them?' I told her,  
7 'Yes. We supported them. And that the fact that Hamami is  
8 affiliated with so and so does not mean that I will deprive a  
9 thousand students from the best schools, according to the  
10 testimony of the Israeli Ministry of Education, the best  
11 schools in -- This does not mean that.' I told her, 'Our  
12 policy that we give the organizations and we don't give to the  
13 individuals. We don't give to the individuals.' I told her,  
14 '75 percent of the Palestinian youth between the ages of 18 to  
15 40 is imprisoned at least one time in the prisons of Israel.  
16 Does that mean that I boycott 70 percent of the Palestinian  
17 people?' I told her, 'It is normal because this is the people  
18 who live under occupation and under this and that. Therefore,  
19 it is normal that you find someone who is affiliated with  
20 Hamas, someone with Fatah, a secular one and a communist one.  
21 This is how the Palestinian people are today. But as long as  
22 they provide real services, our policy in the first place is  
23 to offer assistance regardless of the religious or political  
24 affiliation.' I told her, 'We never look at the political  
25 agenda of any group. We speak about the charitable agenda.'

1 If they provide charitable work, also we follow it to make  
2 sure it has really been spent the right way. We will not have  
3 a problem then.' So I told her that, 'You know what? There  
4 are homes which were demolished, homes which Israel  
5 demolished. There are people who call us, pressure us from  
6 here, from America, and tell us, "You must rebuild the homes  
7 which Israel demolished."' I told her, 'It is because the  
8 homes which Israel demolished now do not belong to the -- TO  
9 the terrorists you are talking about. They belong to their  
10 fathers, to their mothers, and some of them who are even  
11 rented.' I told her, 'What is happening to the Palestinian  
12 people, the oppression, the injustice, and deliberate  
13 starvation, this stuff, if we come and follow Israel's racist  
14 policy that the Palestinian people, by God, according to  
15 Netanyahu, that every Palestinian person, every Palestinian  
16 orphan is a potential terrorist. That means that we should  
17 stop' -- You know, what is she telling me? She is asking me  
18 if the Jews have the right to live. She told me, 'Do you  
19 believe in Israel's right to exist?' I told her, 'See, whom  
20 am I? I am a human being. I am not a state or a government.  
21 I will not stand up against Israel. Israel is a state. I  
22 believe that the Jews have the right to live just like others  
23 as Jews. And before the establishment of the state of Israel,  
24 we were the first ones to receive them in the Middle East. We  
25 received them in 1916 and '15 when they escaped from Europe.



1 We received the Jews.' I told her, 'We want peace. But I am  
2 telling you that the issue you should be asking is whether  
3 Israel believes in the right of -- in the right to exist of  
4 five disbursed people. Aren't these supposed to return?'"

5 Q. "By God. I personally believe that people who want to  
6 live in peace shall live in peace, and those who want to live  
7 in killing, they will keep killing others, and they are the  
8 ones claiming to be peace supporters."

9 And that is the end of that segment. Correct?

10 A. Correct.

11 Q. Now, I just want to show you the version of Wiretap  
12 No. 11, El-Mezain Wiretap No. 11, and just show you the part  
13 that was put in evidence before through testimony when you  
14 admitted this on direct, and just to ask you to look at where  
15 the Government ended its segment.

16 A. Okay. Do you want me to read it?

17 Q. No; just to look, and I will ask you a question about it.

18 A. This one?

19 Q. Yes.

20 A. Okay.

21 Q. And the Government's segment ended with Mr. Abu Baker  
22 saying, "Our policy that we give the organizations and we  
23 don't give to the individuals. We don't give to the  
24 individuals." Right?

25 A. That is correct.

1 Q. And everything after that is the Defense Exhibit No. 11?

2 A. Correct.

3 Q. Okay. Thank you.

4 Now, you also have El-Mezain -- No, I am sorry. Shabib  
5 No. 1. Right?

6 A. I do.

7 Q. And let me come up and just organize this.

8 MR. DRATEL: If I may, Your Honor?

9 THE COURT: Yes.

10 Q. (BY MR. DRATEL) Now, this is also a conversation that  
11 you admitted during your direct testimony. Right?

12 A. That is correct.

13 Q. And it is a conversation between Muin Shabib and Mr.  
14 El-Mezain.

15 A. That is correct.

16 Q. In 1993.

17 A. Correct.

18 Q. And they are talking about -- Just to recap, so we don't  
19 have to start from the beginning, they are talking about a  
20 dispute with Mr. Ashqar. Correct?

21 A. That is correct.

22 Q. Okay. And essentially it is tension between Mr. Abu  
23 Baker and Mr. Ashqar in particular. Is that discussed in  
24 the -- If you just look a few lines higher than what is  
25 highlighted.

1 A. Well, one of them suggests there is a personal tension,  
2 but the general problem was between the organizations.

3 Q. Okay.

4 MR. DRATEL: And Your Honor, I just would move to  
5 admit this. This is another one that the Court has ruled on.  
6 I admit this as Defendants' Shabib Wiretap No. 1, please.

7 THE COURT: And no objection to that, counsel?

8 MR. JONAS: Correct.

9 THE COURT: Are you also wanting the A that goes  
10 with this.

11 MR. DRATEL: I suppose so, Your Honor.

12 THE COURT: So Shabib Wiretap No. 1 and 1-A?

13 MR. DRATEL: Yes.

14 Q. (BY MR. DRATEL) And if you can read, and I hope it is  
15 not too imbalanced that you have to do too much reading, but  
16 if you would read the part of Mr. Shabib and I will read the  
17 part of Mr. El-Mezain.

18 A. Okay. "What is Ismail's opinion?"

19 Q. And Ismail is?

20 A. Ismail Elbarasse.

21 Q. "Ismail -- I didn't -- Ismail told him, 'Our intention  
22 that we both help people over there.' Also the agreement was  
23 unanimous and not -- "

24 A. "Shabib sighs."

25 Q. And that is what it says in the transcript?

1 A. That is correct.

2 Q. "The man never insulted anybody. He listened to him and  
3 said, 'May God bless you. By God, this shouldn't happen. Why  
4 is that?' I am asking this question. 'Do we want this  
5 organization in order in order to serve people to claim  
6 leadership positions in it?' Tell me. Answer this question  
7 for me."

8 A. "There is no need for an answer. It is obvious."

9 Q. "Huh?"

10 A. "It doesn't need an answer, my brother."

11 Q. "We want to serve people. Okay. Here is someone who has  
12 already established. He is already serving you. And by the  
13 time you make people familiar with you, do you think people  
14 will open their arms to you for two years in a time when  
15 everyone is racing to slaughter you?"

16 A. "Yes, by God, my brother."

17 Q. "Are you with me?"

18 A. "True, true."

19 Q. "Instead of forming a strong organization, support it,  
20 and make it the one which takes care of that, instead of  
21 supporting ourselves, strengthening ourselves, let's do  
22 something. It is a small baby. We want to nourish it and  
23 give it antibiotic so it grows up. I mean, it is not going to  
24 benefit the cause at all, by God, my brother. By God, it  
25 won't benefit the cause in any -- Therefore, I told them, 'I'm

1 -- There are some people sitting with us who are not saying  
2 what is just."

3 A. "There is no might or power other than by God."

4 Q. "Even if he came back and accepted our conditions, I  
5 honestly -- My brother, the spirit and mentality do not belong  
6 to people who seek a benefit, but to scatter people. Why  
7 scatter people? You are working alone. Alone really."

8 A. "Alone. He is alone. That is true."

9 Q. And that ends that segment. Correct?

10 A. Correct.

11 Q. Thank you.

12 THE COURT: For the record, I don't know that I  
13 admitted that Shabib 1 and 1-A. Those are admitted.

14 MR. DRATEL: Thank you, Your Honor.

15 Q. (BY MR. DRATEL) Now, there are were also some videos  
16 that you played during your direct examination, and some of  
17 those videos included Mr. El-Mezain. Right?

18 A. That is correct.

19 Q. And do you have your cheat sheet with you of dates?

20 A. I do have that.

21 Q. Okay. Great. Mushtaha No. 1. That is a video that  
22 includes Mr. El-Mezain.

23 A. Correct.

24 Q. And that is from 1990, you testified this morning?

25 A. That is correct.

1 Q. Mushtaha No. 6 is December 1988. Correct?

2 A. Correct.

3 Q. Including El-Mezain. And he is speaking on the first  
4 anniversary of the Intifada?

5 A. I believe that is correct.

6 Q. The time would be correct. Right?

7 A. Yes.

8 Q. And do you recall during that -- You have seen that more  
9 than once, obviously.

10 A. I have, but I have seen a lot of these more than once,  
11 so --

12 Q. Does he also -- Do you recall in that one that he says --  
13 He is talking about someone who is martyred on the pulpit of  
14 the Salah al-Din mosque?

15 A. I don't recall that specifically. If we play it, I am  
16 sure it will refresh my memory. But like I said, I have seen  
17 so many of these.

18 Q. Mushtaha Search No. 15. Just to backtrack, it was  
19 Mushtaha Search No. 1, Mushtaha Search No. 6, and now Mushtaha  
20 Search No. 15. Mr. El-Mezain appears in one of those clips as  
21 well. Right?

22 A. Okay.

23 Q. And that was 1988, the portion that he was in as well.  
24 Right?

25 A. We had that one dated somewhere in the first Intifada, so

1 it was before '93.

2 Q. Well, yes. Well, wasn't there an example in the video  
3 itself that established it was again the first anniversary of  
4 the Intifada?

5 A. There may have been. I just can't remember which tape it  
6 is specifically. If you want to play the clip, I am sure it  
7 says that, but I would want to look at that.

8 Q. But the latest you said it was 1993 under any  
9 circumstances?

10 A. 1992, probably.

11 Q. And HLF Search No. 124, that is a Chicago --

12 A. Correct.

13 Q. -- program. Correct? That Mr. El-Mezain spoke at?

14 A. Yes. That is that one.

15 Q. And that is October 29th, 1995.

16 A. Correct.

17 Q. And so the first three that we talked about, Mushtaha  
18 Search No. 1, Mushtaha Search No. 6, and Mushtaha Search  
19 No. 15, they are all at least five years before October 8th,  
20 1997.

21 A. They were, yes. I mean, they were several years before  
22 the designation.

23 Q. And also before January 23rd, 1995 even.

24 A. That is correct.

25 Q. And HLF Search No. 124 in October of 1995 is still

1 basically two years before October 8th, 1997.

2 A. That is correct.

3 Q. Now, about those videos, they were not necessarily in  
4 complete condition, or they needed to be repaired and sent to  
5 the lab, the ones that were recovered from Mr. Mushtaha's  
6 backyard.

7 A. That is correct.

8 Q. And some of them were just bits and pieces of video that  
9 could be recovered.

10 A. It is my understanding that, you know, they were on the  
11 reels, and so the ends were probably damaged and had mud on  
12 them, or they were -- And that is the part that they had to  
13 repair was what had been exposed.

14 Q. And the part that couldn't be repaired, there is no way  
15 of knowing what was on that part of the tape.

16 A. And I don't know if that would be a second or a minute.  
17 We need to ask someone from the lab about that.

18 Q. But it could be a second, a minute, an hour?

19 A. I don't know about that. We would need to ask the lab.

20 Q. And so we don't know also whether Mr. Mushtaha  
21 taped -- Withdrawn. We don't know whether Mr. Mushtaha used  
22 the tapes for more than one event, let's say; put more than  
23 one event on any particular tape, because we don't have some  
24 of the complete tapes. Right?

25 A. I am not really sure what you are asking.



1 Q. In other words, a tape could have been a series of events  
2 and not just one tape from one a single event.

3 A. Well, in fact, on a lot of these tapes from the Intifada  
4 festivals, you can tell that the producer of the tape had  
5 taken clips from various events during that time period. The  
6 IAP would have multiple festivals and put them on one tape.  
7 So I don't know Mr. Mushtaha essentially did it, but these are  
8 the tapes complete in their entirety.

9 Q. And we don't know if Mr. Mushtaha or anyone else taped  
10 over some of these tapes, part or all of them.

11 A. We would need to ask the lab about that.

12 Q. But you don't know?

13 A. I don't.

14 MR. DRATEL: Your Honor, may we approach for one  
15 second?

16 THE COURT: Sure. Come up.

17 (The following was had outside the hearing of the  
18 jury.)

19 MR. DRATEL: Before we leave the wiretaps, there are  
20 two tapes that I put on the list and the Government objects to  
21 them. I don't intend to move them into evidence, but they are  
22 part of the El-Mezain wiretap, and I would like to  
23 authenticate them through her just to see if she recognizes  
24 them. They are conversations recorded on the wiretap. And  
25 then move on. And then if we move to admit them through

1 another witness, we don't have to call her back.

2 MR. JONAS: I guess I don't understand the purpose  
3 of having her authenticate this. Are these -- What tapes are  
4 you referring to?

5 MR. DRATEL: No. 1340 and 1342, two conversations  
6 with Mr. El-Mezain and his parents.

7 MR. JACKS: Did you try to offer them last time  
8 during the family issue?

9 MR. DRATEL: Yes.

10 MR. JACKS: We object to them.

11 MR. DRATEL: But I am not moving to admit them. I  
12 am just wanting to authenticate them while she is here, and  
13 then if there is another witness who it is relevant to I will  
14 move them in and they can object.

15 THE COURT: Okay. So you want to just get the  
16 foundation laid?

17 MR. DRATEL: Yes.

18 THE COURT: In case at some point?

19 MR. DRATEL: Yes.

20 THE COURT: Okay. I think you can do that.

21 MR. DRATEL: It is two or three questions.

22 (The following was had in the presence and hearing  
23 of the jury.)

24 MR. DRATEL: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 MR. DRATEL: Thank you.

2 Q. (BY MR. DRATEL) Let me show you what have been marked  
3 for identification purposes as Defendants' No. 1340 and  
4 Defendants 1342, and just ask you to look at them.

5 A. Okay.

6 Q. Do you recognize them?

7 A. I recognize them as phone calls.

8 Q. And just --

9 THE COURT: If you would just answer yes or no to  
10 that.

11 THE WITNESS: Okay.

12 THE COURT: Do you recognize them?

13 THE WITNESS: Yes.

14 Q. (BY MR. DRATEL) And are they conversations involving Mr.  
15 El-Mezain that were intercepted during the course of the  
16 wiretap of Mr. El-Mezain's phone?

17 A. Yes.

18 MR. DRATEL: Thank you, Your Honor.

19 Also, to the extent --

20 Q. (BY MR. DRATEL) And there are audios that accompany  
21 them? Each of those calls there are audio files?

22 A. Yes.

23 Q. Okay. Now, during your direct testimony you also put in  
24 a document that you called Payments to IC/Gaza, the Islamic  
25 Center of Gaza?

1 A. Yes.

2 Q. And do you have that up there with you?

3 A. I probably do. Let me check. I do.

4 Q. Okay. And those are payments that Holy Land made to the  
5 Islamic Center of Gaza. Right?

6 A. That is correct.

7 Q. And some of the authorizations you testified on direct  
8 were attributed to Mr. El-Mezain.

9 A. That is correct.

10 Q. Okay. Now, if you look at that document, the  
11 authorizations that Mr. El-Mezain made were July 25th, 1989.  
12 Right?

13 A. Correct.

14 Q. August 1st, 1989?

15 A. Correct.

16 Q. August 14th, 1989?

17 A. Correct.

18 Q. September 21st, 1989?

19 A. Yes.

20 Q. And October 2nd, 1989?

21 A. Correct.

22 Q. And on your chart there are none after that. Correct?

23 A. That is correct.

24 Q. And that last one, October 2nd, 1989, is essentially  
25 eight years before October 8th, 1997.

1 A. Correct.

2 Q. Now, you also put in a chart of payments or transactions,  
3 financial transactions between Abu Marzook and the Defendants.  
4 Correct?

5 A. That is correct.

6 Q. Do you have that one with you?

7 A. Let me just check. I may have it in a different binder.  
8 Actually I don't think I have that one up here with me.

9 MR. DRATEL: May I approach, Your Honor?

10 THE COURT: Yes.

11 Q. (BY MR. DRATEL) And on your chart that you prepared.  
12 Correct?

13 A. I and some IRS agents.

14 Q. But you participated in the preparation?

15 A. I did.

16 Q. And it lists checks -- All the checks go from Mr. Marzook  
17 to Mr. El-Mezain. Correct? That are listed in terms of the  
18 contact -- Withdrawn.

19 The financial transactions between Mr. El-Mezain and Mr.  
20 Marzook are all payments, all checks from Mr. Marzook to Mr.  
21 El-Mezain.

22 A. Right. The money is going one way.

23 Q. Correct. And those dates, I will just do the dates and  
24 the amounts. July 18th, 1988?

25 A. Correct.

1 Q. For \$287?

2 A. That is correct.

3 Q. October 20th, 1989 for \$2,000.

4 A. Correct.

5 Q. December 12th, 1989 for \$1,000.

6 A. That is correct.

7 Q. February 8th, 1990 for \$2,000?

8 A. Correct.

9 Q. April 1st, 1990 for \$2,000.

10 A. That is correct.

11 Q. July 26th, 1990 for \$4,000.

12 A. Correct.

13 Q. October 15th, 1990 for \$5,000.

14 A. Correct.

15 Q. And December 26th, 1990 for \$5,000.

16 A. That is correct.

17 Q. And so the last check December 26th, 1990 is almost seven  
18 years before October 8th, 1997.

19 A. That is correct.

20 Q. Five years before Mr. Marzook was designated as a  
21 specially designated terrorist.

22 A. Correct.

23 Q. And in fact, Mr. Marzook and Mr. El-Mezain are cousins.

24 A. They are.

25 Q. And they lived in the same city for a while in Colorado.

1       A.     That is correct.

2               MR. DRATEL:   Your Honor, I am about to get into a  
3     longer area here.

4               THE COURT:   Let's go ahead and break here for the  
5     day.   Be back at 9:00 in the morning.

6               Please recall the instructions we have been over, and see  
7     you back in the morning.

8               (Whereupon, the jury left the courtroom.)

9               THE COURT:   Anything we need to address before we  
10    recess, Mr. Jonas?

11              MR. JONAS:   I have one issue.   I think Agent Burns  
12    has been on the stand on cross longer than we anticipated, and  
13    perhaps longer than the Defense anticipated as well, given  
14    what Ms. Hollander represented this morning as to how long it  
15    would take her.   I am not faulting her.

16              Agent Burns is coming back for a second testimony.   That  
17    could happen as early as midweek next week, maybe Thursday if  
18    not Wednesday.   She is my witness.   I need to talk to her  
19    about her second testimony, at least to get her to start  
20    working on some things I need her to do.

21              I request permission for the Court to allow me to talk to  
22    her about that testimony so we don't waste that time.

23              MR. DRATEL:   Your Honor, I am the last to cross  
24    examine her, and I would really like to have that sanctity of  
25    that rule observed.   I am going to take maybe an hour tomorrow

1 morning and then everything will be available. We have a long  
2 weekend this weekend for everybody to get together and do the  
3 work that needs to get done.

4 MR. JONAS: Except, Your Honor, I am not going to be  
5 here this long weekend to work with her. And I give my word  
6 to the Court THAT I am not going to talk about her testimony  
7 currently. It is going to be about the upcoming testimony.  
8 There are some things I need her to start working on. I don't  
9 see how this is going to prejudice Mr. Dratel in his cross  
10 examination.

11 THE COURT: I agree. In light of the long weekend  
12 coming up, and the fact you are going to be gone, you may  
13 speak with her about what you stated; just what she needs to  
14 be working on preparing for testimony the second time around.

15 MR. JONAS: Thank you.

16 THE COURT: And so you expect to get to Agent  
17 Miranda sometime tomorrow?

18 MR. JONAS: I see Mr. Dratel has a big stack of  
19 documents.

20 THE COURT: He says maybe he thinks another hour.

21 MR. DRATEL: Maybe. Having seen everyone else,  
22 maybe I can trim it a little bit.

23 MR. JONAS: Sir, yes. My redirect I have to work on  
24 tonight. It could be anywhere -- I would say 45 minutes as I  
25 stand here right now. Don't hold me to that, please. And of



1 course you have recross of five attorneys. I would expect --

2 THE COURT: If the redirect is fairly short, then  
3 the recross should be fairly short. We shouldn't have the  
4 cross like the first time.

5 MR. JONAS: I would expect Agent Miranda to get on  
6 the stand tomorrow sometime.

7 MS. HOLLANDER: Your Honor, I just neglected to when  
8 I admitted Defense Ashqar No. 1, I also need to admit Defense  
9 Ashqar No. 1-A, the audio. And I didn't admit the audio.

10 THE COURT: Defendants' Ashqar Wiretap No. 1 is in  
11 but the A is not. You want to offer that?

12 MS. HOLLANDER: Yes.

13 THE COURT: I don't know whether you objected or  
14 not. But if you did, same objection?

15 MR. JONAS: Yes.

16 THE COURT: Overruled. That is admitted.

17 All right. See you in the morning 9:00.

18 (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A  
2 CORRECT TRANSCRIPT FROM THE RECORD OF  
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.  
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES  
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE  
6 COURT AND THE JUDICIAL CONFERENCE OF THE  
7 UNITED STATES.

8  
9 S/Shawn McRoberts

06/05/2009

10 \_\_\_\_\_DATE\_\_\_\_\_  
11 SHAWN McROBERTS, RMR, CRR  
12 FEDERAL OFFICIAL COURT REPORTER  
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